

Independent Accountants Association of Michigan  
**Serving Accountants and Tax Professionals Since 1946**  
Office of the Executive Director, Jon A. Hayes  
September 22, 2009

### **IAAM Advocates Second Tier of Preparer Regulation Opposes Rigorous Testing and Heavy-handed Penalties for the Non-Credentialed**

*By Jon A. Hayes, Executive Director*

At recently-held IRS public forums, several national accounting and tax organizations advocated onerous regulation of the tax preparer industry to combat growing preparer abuses. These Associations recommended the implementation of a rigorous qualifying examination for "noncredentialed" preparers and stiff penalties for non-compliers.

The Independent Accountants Association of Michigan, a 63 year-old state organization representing over 700 credentialed and non-credentialed preparers who own and operate practices throughout the state, opposes this approach because history has shown such heavy-handed approaches don't solve the problem, rather they entice abusers to find more creative ways to circumvent the system. These initiatives also impede the flow of practitioners into the profession, often leaving consumers with less choice and higher fees. This was most recently realized with implementation of the 150-hour requirement for certified public accountants - a measure many states are now repealing to reverse that negative trend.

The IAAM believes a "proactive" approach would yield better and more tangible results. This includes:

1. Creation of a second tier of registered tax preparer that is regulated solely by a compulsory continuing professional education program.
2. Creation of a comprehensive, sustained public awareness campaign that educates the taxpayer on using a regulated preparer and why a Certified Public Accountant or an Enrolled Agent is the best choice to insure accuracy and compliance.
3. Creation of a CPE sponsorship registry that requires sponsors to fund the public awareness campaign on a federal and state level.

The Internal Revenue Service already has a viable regulatory system in place with the Circular 230 program. Enrolled Agents have passed the most rigorous examination on federal taxes in the United States, and they adhere to a rigorous CPE program to maintain this designation. Certified Public Accountants have also passed a comprehensive examination and also adhere to CPE requirements. In the IAAM's opinion, a necessary improvement that must be made to this system is stepped-up administrative oversight by the IRS, mainly controlling those entities who provide CPE and increasing and maintaining an auditing system of CPEs earned by EAs and CPAs to insure compliance. This would clearly establish public trust in this professional class of preparer.

By creating a second tier of preparer that requires such individuals to pay an annual registration fee and adhere to a comparable CPE program, non-credentialed practitioners will be enticed to legitimize their business and they'll be given the incentive to elevate to the first tier if they lose current or potential clients who choose a credentialed professional.

A strictly-controlled registry of CPE sponsors would greatly improve the level of practitioner competence because it would eliminate frivolous CPEs that preparers earn from programs that don't cover the areas of education needed to maintain competence. By requiring registered CPE providers to pay an annual fee that sustains a public awareness campaign insures taxpayers are fully educated on the differences between a credentialed and non-credentialed preparer. And again, such a system also gives those preparers in the second tier the incentive to pass either the EA or CPA exam to elevate to the top tier advocated in the awareness campaign. It also gives organizations like the IAAM an incentive to help its non-credentialed members pass competency exams to insure the viability of their businesses.

History has shown that overly onerous and punitive regulation designed to increase public protection creates the incentive for abusers to find different ways to circumvent and maintain their operation. A system that invites those operating "under the radar" to legitimize and offers legitimate opportunity to grow and prosper often has much better results in less time. The IAAM found this to be true when we launched efforts in the 1980s to convince non-licensed accountants to pursue the Accredited Business Accountant credential. Until then, leaders had used "scare tactics" to convince the non-credentialed with little success. But when the issue was framed in "demonstrating competence" for clients and a member's local community, the rate of success skyrocketed.

We believe the same approach can be used to achieve the Service's goals. The key is to get practitioners to buy in, and the best way to do that is to offer minimal resistance to entry and the opportunity to advance with dedication and hard work.

The Independent Accountants Association of Michigan asks Commissioner Shulman and his staff to give this proposal careful consideration as he prepares recommendations. By opening the door for opportunity and advancement, we believe the tax system will be significantly improved for all of us.

Thank you for the opportunity to participate in this vital process.

Sincerely,

Executive Director

Texas Society of Certified Public Accountants  
September 24, 2009  
The Honorable Douglas Shulman  
Commissioner

Re: Notice 2009-60, Standards of Conduct for the Tax Return Preparer Community and Increased Taxpayer Compliance

Dear Commissioner Shulman

The Texas Society of Certified Public Accountants (TSCPA) represents 28,000 CPAs. One of the expressed goals of the TSCPA is to speak on behalf of its members when such action is in the best interest of its members and serves the cause of CPAs in Texas, as well as the public interest. The TSCPA has established a Federal Tax Policy Committee (FTP) to represent those interests on related tax matters. The FTP has been authorized by the TSCPA Board of Directors to submit comments on matters of interest to committee membership. The views expressed herein have not been approved by the TSCPA Board of Directors or Executive Board and, therefore, should not be construed as representing the views or policy of the TSCPA. The FTP appreciates the opportunity to provide comments on Notice 2009-60, Standards of Conduct for the Tax Return Preparer Community and Increased Taxpayer Compliance.

The registration of tax return preparers is a multifaceted issue that has been discussed at different levels in the government for several years. You recently stated that your objectives are to "ensure all preparers are ethical, provide good service and are qualified." We agree that this is a commendable and appropriate objective and we support the IRS in this effort. The theory is that tax preparer registration, together with ancillary requirements and regulations, would reduce unethical practices and tax return errors. These unethical practices and errors can be very costly to taxpayers by subjecting them to interest charges and possible penalties for either return-preparation mistakes or by taking unjustified return positions. Further, these unethical practices and errors are costly to the government by reason of inappropriately reduced tax collections. By ensuring that all return preparers are qualified to perform their services in an ethical manner, we agree that both of these consequences can be reduced.

We strongly support the proposed IRS efforts to ensure that all tax return preparers provide quality service and are qualified to provide their services. However, we believe that these additional IRS efforts should be carefully targeted. Circular 230 already imposes ethical standards, and the IRS currently exercises regulatory oversight over "tax practitioners" as defined in Circular 230. (The term "tax practitioner" as used in this letter refers exclusively to those persons defined as such in Circular 230.)

Preparers who are "tax practitioners" include CPAs and attorneys, all of whom are licensed and regulated by the various states. CPAs and attorneys have to (i) meet rigorous state imposed education (including continuing education) standards, as well as ethical standards in order to obtain and maintain that licensure, and (ii) meet the Circular 230 standards. The group of defined "tax practitioners" also includes "enrolled agents;" enrolled agents are licensed by the IRS and have to meet IRS imposed basic knowledge standards and continuing education requirements. Thus, all tax practitioners are licensed and have to meet rigorous qualification standards. The application of a new, additional regulatory infrastructure to this group of licensed tax practitioners would be unnecessarily costly and redundant.

Such is not the case with unlicensed return preparers and here is where we believe the problem lies. It is our view that your objectives can be accomplished simply by focusing on unlicensed return preparers. We suggest that the imposition of the level of rigorous qualification standards applicable to tax practitioners is simply not practicable to be applied to unlicensed preparers. We do suggest taking the following course of action:

- (1) register unlicensed return preparers;
- (2) make these return preparers Subject to ethical standards tailored specifically for return preparation and not the broader Circular 230 standards; and
- (3) impose minimum education requirements, including continuing education, for all registered unlicensed tax return preparers.

This class of preparers would not be "tax practitioners" as defined in Circular 230, would generally be unable to meet the high standards of CPAs, attorneys or enrolled agents, and should not be permitted by reason of any regulation proposal to represent taxpayers before the IRS.

There are currently many preparers who are not subject to registration, testing or continuing education requirements and who are subject to insufficient regulation under the provisions in the Internal Revenue Code relating to return preparation penalties. We support the National Taxpayer Advocate's recommendation to register all unlicensed tax return preparers. This registration should qualify this group of lesser educated preparers for tax return preparation only and should not admit them to practice before the IRS. They should also be subject to the requirements of a specifically crafted set of more targeted ethical rules, but not necessarily Circular 230. We also suggest that any applicable standards include restrictions on these registered unlicensed preparers from holding out to the public that they are licensed or have the ability to represent taxpayers before the IRS. We submit that it is important that the public be protected from unscrupulous preparers who might overstate their qualifications and extent of their authority.

We believe it is important that the registration of unlicensed preparers be of individuals and not just of firms or organizations. This is not to diminish the importance of requiring employer tax preparation firms from setting appropriate standards for their employees, but employees of such firms should be subject to consequences for their individual actions. Focusing on the individual performing the service will attack the issue at its root cause, as it is ultimately the preparer's responsibility to comply with the legal and ethical standards.

Under existing regulations, preparers use either their Social Security number or a PTIN as identification numbers. We suggest the use of a single, separate and distinct preparer identification number (PTIN) for all registered but unlicensed preparers. This would enable the IRS to track these unlicensed return preparers and would also enable the IRS to target specific areas of non-compliance. To the extent that such numbers would also be assigned to licensed tax practitioners, we suggest that numbers assigned to tax practitioners be clearly distinguishable from those assigned to registered unlicensed tax preparers and that such numbers be used for all IRS purposes. The CAF system already in place could serve that function for tax practitioners.

To ensure that all return preparers are qualified to properly prepare tax returns, we suggest that minimum education requirements should be set for all registered unlicensed tax return preparers. We also recommend a continuing education requirement for this group of registered unlicensed preparers.

We view the minimum and continuing education requirements as very important to achieving the stated objectives. If properly implemented, this should go far in improving the qualifications of this group of return preparers and the quality of tax returns prepared by them. The continuing education should be focused on tax return preparation and the funding for this effort should be through the private sector service provider, but regulated by the IRS. (As an example, if preparers are restricted by types of returns for which continuing education is required, the IRS would need to set minimum hours requirements to qualify to prepare returns for each type of return.) We believe that this will discourage the itinerant or occasional paid preparer and encourage a more qualified class of preparers that are more inclined to observe the ethical standards because of their investment of time and money to become registered.

In summary, we believe that an approach that focuses on the registration, regulation, and education of unlicensed return preparers will advance the goal of the filing of more accurate tax returns by that portion of the taxpaying public that does not engage a licensed tax practitioner for their tax filing needs.

Again, we thank you for the opportunity to comment on this very important issue. If you would like to discuss it further, please contact me.

Sincerely,  
Edward M. Polansky, CPA  
Chair, Federal Tax Policy Committee  
Texas Society of Certified Public Accountants

Sent: Friday, September 25, 2009  
Subject: Re: 2009-60

Hi! my name is John Nguyen, I am residing in Nederland, Texas. I have been tax practitioner for over 30 years. Why a tax preparer should be licensed?

For past 30 years, I have seen a lot of the fraud returns, which prepared by unenrolled preparers.

- They claimed they claimed the mileages from home to work and back. (schedule A)
- They claimed mortgage interest and property tax, even TP never owns any home, but live in apartment
- They claimed charity contribution even TP did not have proof or did not make any contribution.
- They claimed a lot of deduction expenses in schedule C for the deck hands, who working on fishing boat, those never bought any things for the business at all.
- Last year (2008 tax return) they claim first home buyer credit, even TP owned home for past 3 years. But they explained to TP they can get that credit because they bought NEW house in year 2009.
- They claimed the education credit even TP did not pay any tuition, but got financial aid.
- They advised TP to give their children information to another TP for tax purpose, then split the refund.
- They claimed IRA contribution, Even TP never made contribution or even did not know what is IRA.

All above fraud returns, I do have copies of those. These returns were prepared by some one not a professional preparer. They do not care even they got caught, because they have nothing to loose. Their real job is not tax preparing, but something else. They did not invest any time for continuing education. But community (TPs) trusting them, because they can make a refund bigger than any professionals in town.

John Nguyen

From: Beth J. Evans  
Sent: Friday, September 25, 2009  
Subject: Tax Preparers

I am an enrolled agent and also prepare taxes. I have passed your stringent exam and also ones for the NSA Accredited Tax Preparer and Accredited Tax Advisor. Our firm, between my partner and I, prepare over 500 returns. He is not currently an enrolled agent but is a NSA Accredited tax Preparer. The NSA alone requires so many CPE hours in taxation to maintain these certifications we worked hard to obtain. Why should we again be required to pass yet another examination? We also use our PTIN on all returns. Those of us who have been in compliance all these years and continue our education annually should not be penalized for those who have not. If the IRS is unable to keep track of the Enrolled Agents and those who have been issued PTINS how are you going to monitor all paid preparers? I would start with those who have proven their worthiness by completing either the Enrolled Agent exam and or an equivalent and can prove their CPE credits. I have to do this for my EA.

Beth J. Evans  
Accountant  
Enroll Agent  
Precision Accounting Services, Inc.

From: Ronald Polichnowski  
Sent: Friday, September 25, 2009  
Subject: Notice 2009-60

It seems to me that "titles" do not make a good tax preparer.

I believe continuing education and training is what will make a good tax preparer. If someone prepares a tax return, other than for themselves, they should be required to complete a certain amount of education hours in the field of taxation. How else does someone "know" what to do correctly.

Software is vulnerable to garbage in ... garbage out and is not reliable. The approach should be to have all existing tax preparers complete a certain number of education hours in taxation each year. The system is in place to monitor EAs, CPAs and attorneys, so just add the appropriate amount of taxation hours to the continuing education requirement.

Ronald Polichnowski CPA

From: Tom Blair  
Sent: Friday, September 25, 2009  
Cc: jams@nsacct.org  
Subject: Comments on the regulation of tax preparers

Dear Sirs:

First, let me say thank you for granting those of us that work in tax preparation and taxpayer representation on a full-time year-around basis an opportunity to express our concerns and ideas for your consideration.

While I have had my Enrolled Agent credentials only since June 13, 2007, I have worked, at least seasonally, since 1981 in tax preparation and taxpayer representation. My comments here are based upon my personal and professional experiences "in the field" so to speak over the past 3 tax seasons.

First, it is my opinion based upon personal and professional experience that an untrained tax preparer that prepares some trusting taxpayers' tax returns is all too often unknowingly endangering that taxpayers' financial well-being, to the detriment of the taxpayer and to our nation.

It strikes me as unthinkable strange that while the person that cuts my hair must be licensed, but that the person that completes a federal tax return for another is not licensed (at least not in most states of the USA at this time).

Honestly, I also fault the software manufacturers themselves for some of the "federal income tax shortfall" because they tout products in the various media resources that seriously mislead taxpayers into believing that over-the-counter software is somehow "fail-safe" and that "one size fits all" for the "average taxpayer." Honestly, I have never met an "average" person or taxpayer). Each individual taxpayer has a unique personal set of factors that must be considered and applied to the tax return preparation process along with the also-fundamental mathematical and monetary disclosure issues.

I can also say that the general public really hasn't a clue just how complex the federal tax code really is or how often it is changed by the U S Congress, federal District Court decisions and IRS constant re-writing and amending of the tax regulations. I've seen various statistics that indicate that the tax code itself is changed in a frequency rate of more than once a day 365 days a year!

It may be time to find a way to inform the taxpayers and make it a "money" to the taxpayer proposition. I submit this idea: How about offering a modest "prompt filing and payment discount or 'refundable credit'" to taxpayers that use a Publication 230-licensed tax professional (attorney, CPA or Enrolled Agent) instead of an unlicensed tax preparer or who complete their tax returns on the basis of "self-prepared." If that "refundable credit" idea became common knowledge to the general public it would, I'm certain, serve to improve on the "federal income tax shortfall", promote a greater number of taxpayer returns being e-filed and all but eliminate the problems uncaring, inexperienced, scam artists or incompetent tax preparers cause.

I applaud the efforts the IRS has put into their web site and all the various resources it contains, but unfortunately,

I'm afraid the general public is more likely to listen to an air-headed brother-in-law that gets a CP-2000 every other

year over a tax matter than visit the IRS web site and get the facts, assuming of course that they understand what facts they should look for and find, and then actually take the necessary time to read up on the issue(s) of concern to them.

At the very least I do recommend consideration of at least one "test year" of the "refundable tax credit" to the taxpayer for using a Publication 230 tax practitioner. I dare to further recommend that the "refundable tax credit" be "graduated" (and making it more newsworthy in the media) something like \$25 for a single taxpayer, \$45 for head of household, married filing separately and qualified widow or widower, and \$95 for married filing jointly.

And make the refundable credit also require e-filing of the tax return instead of filing of a paper return.

Finally, I implore you to require proficiency testing of all tax preparers. While there are those that are attorneys, CPAs and Enrolled Agents that are somehow offended by the idea of having to do so, I see no reason whatsoever that all tax preparers, paid, licensed or otherwise should not be tested nationally. I support proving ones' skills if it improves on the system we have today that serves little purpose but to waste a lot of time and money, and fosters tax cheating, intentional and otherwise. Universal testing for competency would, I believe, lend itself to a national census of tax preparers, it would benefit the taxpayers with the refundable credit and helping most of them to avoid "con artists" in the tax preparation mills, and it would improve the cash flow for both the federal and state tax authorities. The only ones who would lose, it seems to me, are "the bad guys" that are creating problems for the taxpayer, the government and for those of us that bother to take annual CPE courses to hone our knowledge and skills in tax return preparation.



I apologize for the length of this brief but I have chosen my words carefully and I care that too many federal (and state, for that matter) tax cheats are "gaining ground" through the devices of the unethical, inexperienced, uneducated and/or incompetent tax preparers.

I hope this will be of some benefit to you and to your efforts in the issues of tax preparer licensing and competency testing.

Respectfully submitted,  
Thomas Avery Blair, Enrolled Agent

From: JOIYOWL  
Sent: Friday, September 25, 2009  
Subject: Notice 2009-60

I have been preparing tax returns as a paid preparer for 20 tax seasons now - 14 as an employee of another firm and 6 in my own company. I prepare individual, partnership, corporate and a few estate tax returns. I am an enrolled agent and also have earned the Accredited Business Accountant and Accredited Tax Advisor credentials through the Accreditation Council for Accountancy and Taxation (ACAT). I have the following comments regarding Notice 2009-60.

What types of individuals, entities, and professionals currently work as tax return preparers? How are their tax return preparation services currently monitored or regulated by professional organizations or the government? How could this monitoring and regulation be improved?

The professional organizations to which I belong only monitor my credential qualifications (education, ethics, etc). Regulation, tax preparation compliance, and enforcement of these is what the government, specifically the IRS, should do.

How do difference in regulation and oversight affect how the various groups of tax return preparers interact with the Service and taxpayers?

Unlicensed preparers are not governed by Circular 230. I think that all paid preparers should be governed by Circular 230 and have minimum CPE requirements, including ethics.

Is there a minimum level of education and training necessary to provide tax return preparation services? If so, who should be responsible for ensuring that a tax return preparer meets this minimum level and how should that be done?

Yes, absolutely there should be a minimum level of education & training necessary to be a paid tax preparer. A minimum level would be a basic individual 1040 return including Schedules

A & B, Earned Income Tax Credit, and Child Tax Credits. All paid preparers should have to pass an exam to prove their competency or have a credential already that proves their competency for this minimum level of preparation. The test should be created by the IRS but could be administered by professional organizations. And all paid preparers should be required to have CPE every year, at least 16 to 24 hours - including ethics! What, if any, service and outreach should be provided to tax return preparers and taxpayers? Who should provide (and bear the costs for) these needed services?

The IRS provides (and should provide) excellent support services to preparers, if the preparers will avail themselves to these services and information. Professional organizations are also any excellent support to paid preparers, again, if the preparer seeks them out. There should be fees charged for preparer testing and this should go to those that administer the tests. Any penalties assessed preparers for non compliance to testing and CPE requirements, should also go to the body that oversees & monitors compliance.

Should tax return preparers be subject to a code of ethics, and, if so, what specific behavior should that code promote or prohibit? How would that code of ethics interact with existing ethical standards that may already be applicable?

Absolutely all paid preparers should be held to a high ethical standard, the minimum of which should be Circular 230.

What, if any, responsibility should the firms or businesses that employ tax return preparers have for the conduct of the individuals they employ?

The individual signing the return is ultimately responsible for the return. Knowledge and ethics are the individual's not the firm's. The firm has a responsibility to their clients and to provide the best preparers to their clients. But the individual signing the return, is responsible for all the work on that return.

What, if any, responsibility should tax return preparer professional organizations have for the education, training, and conduct of their members?

Professional organizations need to be honor their code of ethics and be responsible to provide enough educational opportunities so their members can fulfill their CPE requirements.

As a member of ACAT, NSA, and WAA (my affiliated state organization of NSA), I currently enjoy these benefits from these organizations.

If tax return preparation services should be regulated, what, if any, special regulatory provisions should be made for individuals who are already tax return preparers, licensed attorneys, certified public accountants, enrolled agents, or software providers?

All paid tax preparers should be required to register and pass a qualifying examination.

Those preparers that have already demonstrated this proficiency by being an Enrolled Agent or holding a license or credential that already meets the qualifications of the examination should be "grandfathered" in and not have to take the test. Without it being required, they have already shown the professionalism and ethics to do it without being forced to. *Absolutely, all those preparers that are currently unlicensed, not enrolled, and have no certifications should be required*

*to demonstrate their competency by passing an exam.* I feel this most strongly!

What, if any, additional legislative, regulatory, or administrative rules should the Service consider recommending as part of its proposals with respect to the tax return preparer community?

1. All paid tax preparers should be required to register. 2. All paid preparers should be required to pass an exam or show proficiency by being enrolled to practice or holding a license or credential that meets or exceeds the minimum standards. 3. All paid preparers should be required to have CPE every year, including ethics.

From: Mike Sullivan  
Sent: Friday, September 25, 2009  
Subject: Comments RE: Notice 2009-60

To Whom It May Concern:

I am an inactive CPA having passed the test in 1972. However, I got out of the business of tax preparation for a few years as I could no longer manually do tax returns, carpal tunnel.

In the late 1980's I discovered that there was income tax preparation software on the market where I would no longer have to do returns manually. Unfortunately, I did not keep up with my CPA dues.

In the early 1990's I reopened my tax business and have built it into a successful firm. I am an UNENROLLED PREPARER, or "H" on the Power of Attorney. I take classes every year to try and keep up on the tax changes and belong to the Montana Society of Public Accountants and the NSA, National Society of Accountants.

I FEEL THAT THE GOVERNMENT SHOULD LICENSE TAX PREPARERS, charge a annual fee os \$100,00, and MAKE IT MANDATORY THAT EVERY PREPARER HAVE A MINIMUM NUMBER OF CPE CREDITS EACH YEAR,

If I pass a test, this does not make me any smarter than anyone else but only proves I can cram and pass a test.

Taking a minimum number of Credit Hours in Taxation each year is the only way to handle this problem.

Congress has made the Income Tax Code a mess. I have a 2 person firm and we work with each other on anything we do not fully understand and try to work out the solution to a tax problem.

I am 66 years old and probably take 24 to 36 hours of courses each year. You will never make the system perfect because of the complicated tax code. I even worked as an IRS Auditor early in my career and after 8 hours a day and 12 weeks of classroom training, as Internal Revenue Agents we were just touching the tip of the iceberg as far as knowledge of the system. I bet there are many IRS Auditors who could not do a return.

Please, charge a national fee and make some credit hours in taxation every year mandatory. CPA, Attorneys and

Enrolled Agents should not be treated any different.

Thank you,  
Michael J. Sullivan  
Sullivan, Doty & Associates

From: Thomas J. Wencil  
Sent: Friday, September 25, 2009  
Subject: Notice 2009-60

It seems to me that preparers who have been doing taxes and have a satisfactory record with the IRS should be grandfathered in to any licensing program just as CPAs, attorneys or enrolled agents would be. Is our experience worth nothing? I have been doing taxes for 40 years and certainly have a better understanding of taxes than many of the CPA's just out of college. Just because a person is not a CPA, attorney or enrolled agent doesn't mean that they are not capable of doing a good job of preparing taxes, as long as they keep up with the new laws and attend continuing education each year.

From: Perry 1. Sherrell  
Sent: Friday, September 25, 2009  
Subject: Tax Preparer Regulation

Tax Preparer Regulation:

After the "ACORN" bombshell, do you really need any more reasons not to regulate tax preparers/ advisers? In Tennessee to be a licensed massage therapist (LMT), you are required to have 1,500 hours of practice to be able to "massage" someone. You have no requirements for tax preparation!! If you want to improve the quality of the returns you receive... you need to improve the quality of the tax providers. And it really chaps me that "joe blow off the street" is not held to the same ethics and standards that I am required to adhere to.

Those are my comments!!

Perry

Perry T. Sherrell, CPA

From: Ricky Pritchard  
Sent: Friday, September 25, 2009  
Subject: Notice 2009-60

Dear Sirs,

I am an Enrolled Agent in Humble, Texas (outside Houston). I have been enrolled since 1987 and my business does tax preparation, tax planning and representation before the IRS. I have found many new clients have come to me because of mistakes on previous year returns by other preparers. Since Enrolled Agents have been tested by the IRS over all areas of the tax laws and must complete 72 hours of continuing education each three year period, I feel our knowledge has already been thoroughly tested initially and every three year period we must file a renewal application and attest to our current knowledge through continuing education. We already have an EA number given to us by the IRS and should not be required to register again. We already are in the files of the IRS and under the direction of the Office of Professional Responsibility.

Since the level of tax knowledge of attorneys and CPA's in general are somewhat unknown because many of them had just a few general tax questions on their state exams (this has been disclosed to me by people who are attorney's and CPA's), this does not make them necessarily qualified to prepare returns either and for many years the public has been clueless about this fact. The public has just assumed because someone is an attorney or

CPA, they must be knowledgeable about taxes and this may not be true. Even though Circular 230 allows attorneys and CPA's to represent taxpayers before the IRS, many of them know they are not confident enough about the representation area and afraid to take on any of these engagements out of fear of a lawsuit so they refer clients to others such as Tax Attorneys, CPA's or Enrolled Agents who are in fact are qualified because they choose to specialize in that area. Perhaps the best way to address these issues is to have those professionals who do want to prepare taxes register and given an IRS number so they too can be monitored by the Office of Professional Responsibility as well. Of course the ABA and AICPA may object to this, but it needs to be done.

As for everyone else who is an unenrolled preparer, I believe they should be tested for their preparation knowledge and then registered. H&R Block, Jackson Hewitt and Liberty Tax do offer classes that teach just some of the basics, but many times preparers who work for them have more complex issues they are not trained to handle so the returns are incorrectly prepared. They also work on volume so not enough attention is always given

to what the clients require. I favor licensing these preparers on a restricted basis. They would be required to take an exam and once passed, given a license that restricts them to basic tax issues. If a client has more complex issues, then they need to be referred to a fully licensed professional. Of course these individuals might find it in their best interest to continue their education further and become a Circular 230 practitioner themselves and request an upgrade to their licenses. This includes all other tax preparers who do taxes on their own and are not associated with any group, if they have the basic knowledge however they learned it, then they too can either take the exam for a restricted license or further their education and become a Circular 230 practitioner and upgrade their license as well.

My comments may not be too favorable to certain groups, but I have prepared taxes for over 30 years and have found many mistakes others have made who are obviously poorly trained. Registration of non-EA's is the key to monitoring just who is preparing returns and what knowledge they have. This may not solve all of the problems, but it most certainly will cut down on who is qualified and who is not. I hope my comments will help, but I am willing to accept whatever decision is reached. Thanks for your time.

Sincerely,  
Ricky Pritchard, EA

Sent: Friday, September 25,2009  
Subject: Tax Preparer Regulation

Being both licensed and accredited, preparing taxes for over 20 years, and taking up to 60 credit hours of education annually, the majority in taxation, I believe exams should be required for unlicensed preparers, and every tax preparer/professional should be required to obtain and maintain a PTIN and EFIN, I also feel there are a lot of CPAs and attorneys who, due to their designations, feel they are above the licensing requirements, These designations do not guarantee tax preparation experience and/or expertise, and I feel they should be included in any licensing requirements established,

Thank you,  
Nan Jacobson, Accountant  
ATP, LTP



From: John E. Isaacs, Sr  
Sent: Friday, September 25, 2009  
Subject: Licensed Tax Preparers

Why should individuals be allowed to file tax returns when they have not proven any level of competence to do so. I see so many incorrectly prepared tax returns from unlicensed preparers. A number of them are more than willing to make up numbers and place on the return. There is no good reason to allow this type of prepare. It is a clear disadvantage to the government and the taxpayer. This type of prepare encourages dishonesty by the tax filing public. They think they can get away with filing inaccurate tax returns. As a former IRS tax auditor I have seen many of these preparers use various names of family members in an effort to keep earning income from tax preparation. I have numerous clients coming to my office from incompetent tax preparers. It is both alarming and frustrating that I spend money to stay informed and up to date on tax issues and these people appear to be doing nothing to improve themselves. So everyone loses, the government, the public and other tax preparers.

John E. Isaacs, Sr., EA  
John Isaacs & Associates, LLC

From: alburnha  
Sent: Friday, September 25, 2009  
Subject: Notice 2009-60

I have been advocating licensing non qualified tax preparers for more years (30+ at least) than I can recall. Not because of their taking away income from CPA's, LPA'S, RPA,s or EA's but because they are totally unqualified and their attitude is since they can prepare their return they can prepare anyone's. License License and offer extremely huge financial penalties if caught in violation.

ALAN BURNHAM, CPA

From: Gale Leetzow  
Sent: Friday, September 25, 2009  
Subject: preparer considerations circ 230

Paid preparers should be qualified and educated in tax preparation. They should also continue professional education thru-out their career. IRS should also enforce the existing rules by following up on violators and those preparers that knowingly prepare false and fraudulent returns.

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From: JParker  
Sent: Friday, September 25, 2009  
Subject: Tax Preparer Registration

To Whom It May Concern:

Having prepared tax returns for close to 40 years, I believe tax preparer registration is a must. Returns I see prepared by unlicensed or unenrolled preparers are often full of errors. This is because, at least in Arizona, anyone can hold themselves out as a preparer and they are not required to take any continuing education classes. We all know how tax rules are constantly changing and to be effective you must keep up to date with the rules and regulations. The worst offenders, however, are the self-prepared returns using turbo tax. This program will give you an official looking return but, if you do not know tax law, it is often full of errors. I know registration would not stop all abuse but it would certainly be a step in the right direction.

Joan R. Parker, EA

From: Gail Moschella  
Sent: Friday, September 25, 2009  
Subject: Notice 2009-60

I am an unenrolled tax preparer who is registered in the state of California to prepare tax returns. Currently, California through the CTEC requires that all tax preparers who prepare Federal and State returns for a fee be registered. We must first undergo 60 hours of training and then annually 20 hours of training:consisting of 16 hours Federal and 4 hours State update information. In my practice, I have come across clients who have been victims of unregistered preparers who took advantage of these uninformed taxpayers. Though the CTEC is doing their best to make people aware of these unscrupulous preparers, there are many who are still ignorant to the damage that they can do to them.

I am *for* some form of regulation and training. I am an Accredited Tax Preparer through the Accreditation Council for Accountancy and Taxation which is through the NSA. To be accredited, I must undergo 72 hours of training within 3 years (which is an average of 24 hours per year and must include ethics training). I disagree with some CPAs (who would not even take on the average taxpayer's return) that you must be a CPA, Attorney or Enrolled Agent to prepare tax returns, but some form of education should be required.

The requirements that are necessary to register in California, I feel, are ideal. 20 to 25 hours of training to renew your registration each year is perfect for the majority of tax preparers and California has some on-line tax "schools" which are excellent in preparing the average tax preparer for the new tax season. On the other hand, I feel that CPAs, Attorneys or Enrolled Agents should be required to prepare the taxes of Corporations whose tax preparation requirements are too complicated for the average tax preparer.

I hope that my input helps you in your decision on the regulation and licensing of tax preparers.

Sincerely,  
Gail A Moschella, ATP

From: Walter  
Sent: Friday, September 25, 2009  
Subject: PREPARER REGISTRATION

Dear IRS:  
Will preparer registration improve the breed?

I hope so but I have this nagging feeling that the bad guys will still be bad guys and will ignore registration. Another nagging feeling is that this registration will result in another bureaucracy extracting registration fees from the good guys.

If we are really trying to improve the breed rather than create another bureaucracy then there should be an entry level test and mandatory continuing education. Some suggest the entry test be simple, such as the VITA test. I disagree as the VITA test is too easy. I believe the EA test is too difficult. I believe the accreditation council for accountancy and taxation ATA test is also too difficult but their ATP test might be just right for an entry level test. I believe those covered under Circular 230 and those having earned credentials, such as those earned from ACAT, need not be tested.

In this profession many practitioners take part in NASBA approved continuing education programs. I believe tax preparers produce better returns when they participate in CPE programs. A tax preparer registration program should encourage registrants to participate in CPE programs.

Sincerely,  
Walter F. Dudley, ABA, ATA, EA, ECS  
Dudley & Holomon, Inc.

From: BBoydCPA  
Sent: Friday, September 25, 2009  
Subject: Notice 2009-60

Regulating tax preparers:

CPAs and Enrolled Agents have already passed sections on tax, in addition to being subject to continuing education requirements each year. I do not believe that any further testing is needed for these tax preparers. I also think that individuals who possess a recognized tax accreditation (ACAT, for example) should be exempt from further testing.

It is my understanding that the IRS is trying to compile a database of tax preparers - I have no objection to registering for that, although I would prefer that it not cost anything.

The tax preparer that needs regulating in order to protect the public, is the preparer who (generally) has no credentials, has taken no training and buys cheap software to prepare tax returns for others. I tell my clients all the time that anyone can hang out a shingle and be a tax preparer - I don't think the general public realizes this is the case. These unlicensed preparers should be required to register and to pass a test to prove that they are competent.

The problem I think you will have though, is that a large number of these people don't or won't sign the tax return as a paid preparer, so you won't have any way of tracking them. I think it is not that uncommon for taxpayers who wish to "fudge" on their tax returns to find preparers who are willing to prepare the return that way (and be paid for doing so), yet not sign the return. I've had numerous clients who wanted to report/not report certain items in such a way that I believe made the tax return incorrect or fraudulent - when I told them I would not prepare the return the way that they wanted, they asked "well, can't you just prepare it the way' want and not sign it?" !!!

Beth Boyd CPA

From: Vince Cristaldi  
Sent: Friday, September 25, 2009  
Subject: Tax Prepares

I believe and have seen many tax preparers that are incompetent, unethical and hold themselves out to be qualified. They are unaware of circular 230; profess to be professionals take figures from a client that are not correct and they know it. For any business a proper balance sheet and profit and loss statement should be prepared, using bank statements reconciling the balances with back-up work sheets.  
In my opinion I would limit tax preparation and tax advice to CPA'S Attorneys and Enrolled Agents.  
You cannot rely on software, you need to know the code.

Vincent M Cristaldi, EA  
Vincent M Cristaldi Accounting Service



Sent: Friday, September 25, 2009  
Subject: Preparer regulations

Many people make the incorrect assumption that CPA's and attorneys are proficient at tax preparation. Their educations require only minimal exposure to tax preparation. I support regulations and accountability for all involved in the tax preparation industry but feel that licensing should be necessary along with testing to ensure proficiency. I believe such testing should be required of all unenrolled preparers, as well as CPAs and attorneys. Enrolled Agents already are tested for proficiency.

From: Maurice Michel  
Sent: Friday, September 25, 2009  
Subject: Notice-2009-60

Gentlemen: whatever regulations in the *income* tax preparation industry finally come to be,  
YOU NEED TO MARKET AND INFORM THE PUBLIC NATIONWIDE .... the taxpaying public is generally  
uninformed when it comes to who holds what license, credential, what continuing education  
*is* . ...

Maurice L Michel  
Licensed Public Accountant (Indiana)  
Enrolled Agent

From: Morey  
Sent: Friday, September 25, 2009  
Subject: Notice 2009-60

There was no law that forces me, and my non-IRS Enrolled Agent colleagues, to voluntarily study for a two day exam that covers a good chunk of the entire tax code. Most of us did so because we recognize the importance of being accurate when preparing income tax returns. Even though many of us spent hundreds of hours and thousands of dollars to study and prepare for what many of us believe is the bare minimum requirements, almost all of us feel slighted by the approach the IRS has taken towards Enrolled Agents.

Any decision Treasury makes that improves the quality of tax preparation in this country is a good decision; any decision Treasury makes that gets closer to making everyone (including attorneys and CPAs and EA's who qualified by working for IRS) take the same exam that all of my preparers and I have voluntarily taken to prove our competence is a better decision.

There are major consequences to your action. The big retail firms will spend a lot of money lobbying because they will lose preparers and business. Taxpayers almost always blame the preparer, rarely themselves. Putting the onus on the taxpayer when they sign the return is probably correct, but unrealistic, if Treasury wishes to have accurate returns. Decrease supply in the marketplace, and it stands to reason preparation prices will increase. On the other hand, there are plenty of places where ALL taxpayers, regardless of income, can go to get the help they need - for free - if they are willing to put in that time and effort. Every library has tax forms and instructions, as well as the tax preparation help books that are also available at every book store and online for less than \$30. Most of clients use our services for four reasons: the complexity of the tax code, our knowledge, competency and convenience.

I pride myself in knowing we have nearly 1500 clients in my firm, and our staff continuously beat audits. We have an internal review process in place for particularly tricky returns. We have also voluntarily worked with our tax software company to correct errors in their programming that have skipped by everyone, including the IRS, during testing. Every once in a while there are issues that need to be litigated out, but that should be the rare exception rather than the rule. The vast majority of our face-to-face audits result in no or minor change. This tells me (and it should tell you) that we are doing our job as the law demands. This should also be the level of competence Treasury should receive from every paid tax preparer.

Maurice Holzman, EA  
CEO  
Coast-to-Coast Tax Service

From: Barbara Huffman  
Sent: Friday, September 25, 2009  
Subject: Notice 2009-60

I am an UNENROLLED tax preparer and have owned and operated my own business for over 20 years. I received between 45 and 75 CPE credits per year. This is more CPE credits than required for EA's and CPA's I am well informed and knowledgeable in tax law. I received CPE credits from the West Virginia Public Accountants Assoc. where I served on the board. I receive and earn CPE from NATP, NSA and the IRS tax forums each year. My clients would be lost without the services that I provide and my knowledge would be wasted if I were not able to file returns and serve my clients for the next few years. We, as tax preparers can be tracked by our work thru our pin numbers. The American people have CPA's, Attorneys, Vita workers and other preparers that are conducting unethical work and need to be traced also.

I am 67 years old and do not plan on retiring for a couple more years. I started my business from scratch. in the first year filing only 67 returns. I now file over 700 returns per year. It would be difficult to walk away from a business that I started from scratch. My husband passed away and I am the sole provider for my household. The issue of the UNENROLLED preparer can be controlled with required CPE and Pin numbers. Thank you for the opportunity to address this issue. Barbara Huffman Smith, HUFFMAN TAX SERVICE INC.

From: Brammer, Carolyn  
Sent: Friday, September 25, 2009  
Subject: licensed preparers

If enrolled agents are not licensed preparers, then what are they? That is the only federal license that I know of concerning tax competency. CPAs and attorneys hold state specific licenses.

Carolyn Brammer EA  
A &EProSeries

From: Atilla M. Taluy  
Sent: Friday, September 25, 2009  
Subject: Response to Request for Public Comment

The attached is submitted in response to Request for Public Comment (Notice 2009-60), Standards of Conduct for the Tax Return Preparer Community and Increased Taxpayer Compliance  
Submitted by  
Atilla M Taluy

## **SUMMARY**

Oversight of the tax practitioners is timely and has to be done without regard to any other designation that the practitioner may hold. Further, whether a practitioner receives compensation for the preparation of the return should not be a factor. It should be reviewed as a long term process, and should be accomplished in phases. The processes and standards should be defined by all involved in the tax ecosystem. The taxpayers will also need to be educated and become a part of the improvements of the practitioner community. The requirement of oversight of the tax software industry should be carefully revisited, if indeed required, what is meant with the oversight and its coverage should be defined in partnership with the software industry, big and small. For both the practitioners and the software industry oversight, extreme care should be exercised to maintain the integrity of small businesses involved and not allow this process to become means for elimination or degradation of these businesses and the higher level of service they encourage through competition.

## **DISCUSSION**

It was noticed that there were no small business representation in the scheduled Forum on Proposals to Advance Tax Preparer Performance Standards. This submission, among others, points to some of the concerns of very large numbers of small businesses that exist in the tax ecosystem.

### **Practitioners**

Two distinct aspects of the practitioner oversight should be considered and treated separately. The first aspect is the registration of the practitioners.

In as much as there will always be different levels of practice that will result in different quality of returns and/or interpretation of the tax laws, the identity of the entity preparing the return, to the level of the authorized individual, is of great importance from standpoints of custody and creation of the submitted information. Regardless of the existence of payment in relation to the provisioning of the tax preparation service, or ownership of other categories of identification or accreditation, such entity identification has to be in place. In many instances, there are identifiers through both on the Federal and state agencies. All practitioners already possess a unique identifier, their Social Security Number (SSN). During the last decade, however, the SSN has become sacred, and impractical for public dissemination for reasons of privacy, thus creating an alternative, the Preparer Tax Identification Number (PTIN).

The current PTIN model is an excellent identification vehicle for this. It has a good history as well as the basic operational structure and market acceptance. It is simple and easily modifiable for this purpose. It is recommended that the PTIN concept should be expanded to serve the practitioner market as the backbone of the identification structure. This registration aspect can be implemented in a reasonably short period of time. In general, any chosen identifier must be standard and universal, covering all entities and individuals preparing personal income tax returns and must have a single, central secure management authority (CSMA).

The CSMA should obtain only the required data to positively identify the applicant and have the authority to disseminate this information for a specific list of recipients who will be partnering in the tax ecosystem. Different recipients may be granted differing levels of permissions to access the information they are allowed. Preferably, the access will be over a predefined secure Online connection. Certain portions of this data set should be public information. For instance, the taxpayers should be allowed to verify the currency of any practitioner, and such look-up processes should be made available publicly without registration or special connectivity required by the entity making the inquiry.

It is suggested that the Internal Revenue Service (IRS) is the best candidate to act as the CSMA, to collect, retain, and disseminate information from this repository on a need to know basis to other partners, as may be authorized by law, regulation, intent and convention.

The second aspect regarding the practitioners is the establishment of minimum qualification required to practice.

It is considered that many of the practitioners that are in the marketplace perform well and produce tax returns that have proper conformance to the legal requirements as well as reflecting the true tax profiles of the taxpayers. On the other hand, some other practitioners produce tax returns that are not as conforming or accurate to portrayal of the taxpayer profiles.

The reasons for the results of the actions of the latter group are two fold:

Ignorance of subject matter probably accounts for a great majority, whereas the second reason, a real serious one, is the blatant disregard of the tax laws and regulations in place.

Ignorance of the subject matter is one that can be remedied with greater ease.

The foundation of the remedy is the education of the practitioner.

There appears to be no consistency among states as to what the registration process for practitioners should be. At this time there are two states that have established certain minimum requirements for practitioners, and three others in the process of implementing them. Compliance in the practitioner community that is subject to state based education standards generally appear to be good.

However, thirty seven other states that have personal income tax filing requirements still remain uncommitted.

Therefore, it is essential to consider minimum national standards. This process should be done under the leadership of the IRS, jointly with the relevant state agencies, the software industry, unbiased representation from taxpayer advocacy groups and the tax practitioner organizations. The minimum standards, as well as the associated costs must also be set so as not to be beyond reach, thus ultimately forcing the existing independent practitioners out of business. This process must also maintain the integrity and the competitive contribution of the small business, which in fact accounts for the great majority of the practitioners. Provisions have to be made for the "Grandfathering" process so as not to create an immediate void in certain portions of the marketplace, which can be detrimental to both the tax agencies and the practitioners operating as small businesses.

The standards set must also reference the requirements that the practitioners renew and improve their knowledge and skills by continuing education, at least on an annual basis to maintain their status. The successful education completion indicator should be passed on to the CSMA database supplied by the providers of the education requirements.

A provider and certifier of the education and other basic legal requirements, such as the required bond amounts and other criteria that may, for instance, also be effected by state business and professional codes, should be handled at state level and should not become an added burden to the IRS. However, generation of all interstate standards must be done under IRS leadership and mandate that reciprocity for practice exists between all states once the common basic education requirements are met. An industry sponsored Self Regulated

Organization (SRO) model, with its governing board including all partners of the tax ecosystem may also be considered. This will help unify the various tax agencies and further the education process with greater ease.

Obviously, the fees assessed for the SRO purposes should be minimal, maybe \$50 per year, so as not to become a burden, or an inhibitor to any practitioner, regardless of size.

Even with such minimal amounts, with great numbers of practitioners, a well funded SRO can be established. In any event, it is anticipated that the education process, to be fully implemented and to reach the desired minimum level, will be

a process that will require years.

Blatant disregard of the tax laws and regulations is a much more serious problem and will require significant effort and funding on the part of all government agencies. The latest news reports as well as other documentary evidence indicate that such ill practices are not limited to one category of practitioners, or nonprofit groups.

Eradication of problems in this arena will require very strong enforcement on all fronts.

Conceivably all of the tax agencies are already empowered with various penalties to deal with those practitioners that blatantly disregard the tax laws.

Those who do not will need to have their legislatures give them the appropriate tools they will need. Further, the corrective efforts in this arena will require a collective and cooperative effort of all involved tax agencies with significant budgetary allocation, at least for the first five years of this battle. The established unique identifier will be a key to purge utility in this battle. The SRO concept may also be useful in this arena providing that proper, just and equitable administrative and appeal processes are carefully woven in its structure.

In all matters pertaining to practitioners, an essential piece will be taxpayer education. Even though this appears to be a daunting task, in reality it is merely to drive home the following two messages:

Only practitioners that have valid identifiers are allowed to prepare a return.

All practitioners, whether paid or not, must sign a tax return that they prepare affixing their identifiers.

Since it is understood that many practitioners that abuse the tax system do not currently sign tax returns they prepare, this education is essential to close the loop. Simply creating a regulation requiring legitimate

businesses to register may create loopholes, and may not be sufficient to prevent illegitimate businesses from continuing to operate underground. To this end, as was implied above, the taxpayers have to be able to determine if a given practitioner has a valid identifier, or is in current status in the database.

### **Software developers**

The applicable aspects for an oversight of the software developer community create questions as to what this oversight's intent will be. It is presumed that the security, privacy and accuracy aspects may be included in this. Before proceeding with this further, it is very important that the IRS, together with representatives of the software industry, both large and small, work to establish the definition and purposes for the software industry oversight. Nevertheless, following point should always be taken into consideration and suggested that it become subject to IRS oversight:

A harmonized approach to security and privacy issues must be consistently adhered to within the tax ecosystem and there should be oversight to assure this adherence.

On the other hand, from the perspective of "accuracy", currently, in the absence of declarations to the contrary, it is presumed that the IRS approved tax software is known to be accurate. Even the Government Accountability Office (GAO)

recommends to "assess the extent to which the reliance on tax software creates significant risks to tax administration, particularly in the areas of tax return accuracy, the security and privacy of taxpayer information, and the reliability of electronic filing", stops short of recommending that immediate efforts for oversight is required.

The software community thrives on providing accurate calculations based on the interpretation of the tax laws and regulations. Specifically, the personal income tax software development community keenly reflects the IRS regulations.

Further, most Online service providers, who are now becoming the fastest growing link between the taxpayers and the tax agencies in the preparation and delivery of their personal income taxes, provide very detailed explanations of the tax form instructions and publications to the taxpayers. They do this without interpretation of content of these documents so as not to add another level of potential confusion or interpretation.

Market also has a controlling effect in requiring that the software be clean and properly calculating. If the software does not perform proper mathematical calculations or table look-ups, or perform proper calculations based on taxpayer declarations, the returns filed with the IRS are generally rejected. Further, rejected returns, and returns with inaccurate calculations result in rapid demise of a company since the taxpayers will choose not to conduct business with such a company.

Whether using a preparer or using an do-it-yourself software, the taxpayer provides inputs based on certain set of questions that are presented to so as to determine the tax consequences and the filing requirements applicable. If the answers are not provided correctly, with or without intent to do so, the software, or even the preparer will file a return that is based on this incorrect information.

This should not be construed as a software inaccuracy. In any event, it is important that what is meant by "accuracy" with respect to software be defined.

Once defined, if it is still required that there is a necessity for accuracy oversight, the IRS should not be the body to perform this oversight function since the IRS is also the tax administrator and should not be guiding the interpretation of the tax laws and rules through software. It is considered that this would create significant conflict in the future.

One alternative would be self certification together with the usual preseason IRS testing and approval process. Another approach would be to augment self certification by an industry SRO.

One important plausible method to test the software is to have a fixed number of test cases to ensure that the software generates the correct forms and carries data from one to another in a way consistent with IRS publications and rules for the vast majority of cases.

This is an extension of the current Participant Acceptance Testing (PATs) process already in place. This will not only provide a high level of assurance that the calculations are accurate, but will also make certain that proper handshake, relationships and security protocols exist between the IRS and the software developer infrastructures. If this were to be combined with a simple SRO, the

SRO could provide well developed scenarios of a manageable number, for instance 30, which can be modified by the software developer that will then test the functionality of that system. All software, whether desktop, professional,

Online or do-it-yourself the should be tested in the same manner, equally.

The software developer will provide calculated returns and certify that they are correct and accurate based on the current tax law, and IRS processing capability in effect at the time of return generation. The SRO, if one



exists, will then validate the accuracy based on this limited number of scenarios that will demonstrate that the returns prepared are within the acceptable range for the purposes of inter-form data carryovers, calculation and table look up accuracies.

In any circumstance, going the Canadian route of testing tens of thousands of scenarios or dealing with bulky SROs with bureaucratic inertia are not practical for our American tax system. It will merely create many artificial burdens and possibly many detrimental bottlenecks.

Our impression is that the software identification numbers issued by the IRS does not exceed one hundred. Some of the software developers are assigned more than one software identification number. This being the case, the number of companies in this particular market reduces further. The composition of the companies is such that a very great number of these companies are small businesses. If an SRO model is chosen, it is very important that the integrity and the survival of small businesses in this community not be jeopardized with fees that may be nominal for big companies but detrimental to small ones. The composition of the directors of such SROs must not be weighted in a direction that favors anyone group in the tax ecosystem. The SRO should not be a tool to eliminate the small business and/or to decrease competition in the market place.

From: Ev & Mimi Shonkwiler  
Sent: Friday, September 25, 2009  
Subject: 2009-60

My credentials are: Everett C. Shonkwiler, \_\_ - 4 yrs of accounting from Ashland University, class of 1959, worked eventually as senior accountant at Frank, Seringer & Chaney-CPA's for 28 years, then for 16 years at Ashland University in accounting services.

I retired about 2006 and am currently preparing over 400 ELF 1040's from my home for the last 20 years (ever since I left the CPA firm. When I left with the permission of the firm I started with 15 prior clients, I started preparing them at home only by "word-of-mouth" has grown to now over 400.

When I graduated from college in 1959, after 3 months I joined the CPA firm, preparing all tax returns, doing the usual audit work as senior accountant on banks, wholesalers, drug stores, manufacturing, etc.

I never became a CPA since I was working about 12 to 16 hours a day for the first 3 years due to special circumstances (not logging all of the time since I was on salary.)

I am a member of NSA and Ohio, keeping up with their requirements.

MY QUESTION - Since I am only preparing 1040's, will I be tested on ALL the other 1065, etc????

From: LOTAXMAN  
Sent: Friday, September 25, 2009  
Subject: Notice 2009-60

To achieve your stated goals of decreasing fraudulently and incorrectly prepared tax returns, I suggest the following:

1. Establish a database of fraudulent and incompetent tax preparers, and enter the PTIN or Tax 10# of the preparers of such returns into that database, when those returns are found to be fraudulent or inaccurate. You should then have the information you need to monitor, discipline and/or expel such preparers. You already have the information you need to do that. The money you would spend on licensing would be better spent on using the information you already have to achieve your goals. Requiring licensing, testing and continuing education does not achieve your goal any better than the above suggestion, and would cost the Service more and be a burden on honest, competent preparers.
2. Preparers who attempt to circumvent the rule by not listing themselves on the return as the paid preparer should be severely disciplined. They could be identified by questioning taxpayers whose returns are fraudulently and/or incompetently prepared by such individuals. Preparers who prepare returns for family and friends for free should also be required to list their 10# on the return as a non-paid preparer.
3. Encouraging taxpayers to prepare their own returns does not achieve your goals. Honest, competent tax professionals routinely advise clients not to lie on tax returns, and are much more competent than virtually all nonprofessionals.
4. All tax returns, which are prepared by an employee or associate of another tax preparer, or by more than one preparer should list the ID # of all persons involved in the preparation of the return. Any fraudulent or incompetently prepared return could then be entered into the database in #1, above. By including all persons involved in the preparation of such returns into that database, you would encourage the signing preparer to use only very honest, competent assistants. This would contribute to greatly eliminating the seriously defective work done by many of the large national chains of tax preparers.

You may contact me.  
Thomas J. O'Brien,

From: Sue Coleman  
Sent: Friday, September 25, 2009  
Subject: NOTICE 2009-60

I AM NOT A CPA, ATTORNEY OR ENROLLED AGENT. HOWEVER, I AM AN ACCREDITED TAX PREPARER AND TAX ADVISOR THROUGH THE ACCREDITATION COUNCIL ON ACCOUNTING AND TAXATION. WE HAVE MANDATORY CPE CREDITS WE HAVE TO ACCUMULATE ANNUALLY- THESE HOURS SOMETIMES EXCEED THE MANDATORY CPE CREDITS OF THE AFOREMENTIONED PERSONS. I ALREADY HAVE 16 CPE'S AND WILL HAVE AN ADDITIONAL 25 HOURS BEFORE CHRISTMAS. IN ADDITION, I HAVE BEEN A PREPARER FOR 32 YEARS CONSECUTIVELY AND HAVE BEEN AN ERO FOR ABOUT 15 YEARS, I DON'T UNDERSTAND THE EFFORT TO BLOCK PEOPLE LIKE MYSELF FROM PREPARING TAX RETURNS WHEN IRS ACCEPTS RETURNS PREPARED BY ACORN AND OTHER ORGANIZATIONS THAT PREPARE RETURNS FREE, BUT HAVE NO TAX BACKGROUND OR EDUCATION REQUIREMENTS, EVEN H&R BLOCK DOESN'T REQUIRE THE NUMBER OF CPE CREDITS THAT WE HAVE TO ATTAIN. I DEFEND MY CLIENTS IN AUDIT AND MANY OTHER GROUPS DO NOT. I TREAT THE IRS AUDITOR AS A PROFESSIONAL AND PREPARE FOR AUDIT IN A MANNER TO MAKE THEIR JOBS EASIER. I HAVE NEVER HAD A PROBLEM WITH AN IRS AGENT. I FEEL THAT MY LEGS ARE BEING CUT FROM UNDER ME AS CONGRESS AND THE IRS ATTEMPT TO SHIFT ALL RETURNS TO CPA'S, ATTORNEYS AND ENROLLED AGENTS, MANY OF WHOM DON'T CARE ABOUT THE INDIVIDUAL TAX PAYER OR THE SMALL BUSINESS OWNER, BUT DEDICATE MOST OF THEIR ENERGIES TO LARGE COMPANIES, WHERE THEY CAN MAKE THE MOST MONEY. I GUESS WHAT I'M TRYING TO SAY IS, DON'T IGNORE THE NON-ENROLLED AGENT PREPARER. WE'RE WORTH YOUR CONSIDERATION.

SUE A COLEMAN, ATP, ATA

From: GARRY GRAU  
Sent: Friday, September 25, 2009  
Subject: Notice 2009-60

Sirs:

There needs to be a Grandfather clause for those preparers who have been in practice for a number of years, so that they will not lose their livelihoods.

Patrick G. Grau

From: Eva Rosenberg  
Sent: Saturday, September 26, 2009  
Subject: Certifying unenrolled tax preparers

Dear Mr. Shulman,

Thanks for asking us all about this.

I am passionately concerned about this issue.

As you realize, as TaxMama®, I get a lot of questions from people who've encountered incompetent or unscrupulous tax preparers, and are now suffering the consequences. And since I am running the Enrolled Agent Exam Review Course, I work with a lot of unenrolled preparers around the country who tell me about horror stories in their local areas.

It astonishes me that we have had an income tax this long and didn't regulate all tax preparers in the first place. Doesn't it shock you? In at least 47 states in the Union - and the territories - anyone at all can open up shop and claim to be qualified to prepare tax returns. WOW! It boggles the mind.

Regulation and control should start at the most fundamental level. Any tax preparer doing any volume at all is filing electronically. Why aren't they being screened before an EFIN is issued? That's where the screening should start. Issue regulations that require either proven experience, a degree, or certification of completion of a specific level of tax course(s) (like NATP or other tax society CPE credits) before an EFIN can be issued?

Should there be testing? That's an excellent idea. There has been talk of a simple exam. That's fine.

At the very minimum, the testing should consist of the knowledge needed to properly complete the average individual tax return. Licensing should only be issued allowing people to prepare individual tax returns and the related forms.

There should be separate testing for payroll tax returns and all those related forms.

When it comes to business returns, estates and trusts - the preparers should be required to be enrolled practitioners. The issues are too complex to test on a basic level. Frankly, if the preparer does not understand fundamental accounting principals, and complex tax planning issues, they should not be preparing those returns.

That's just the opinion of one TaxMama® who has been seeing the work of these unlicensed preparers from a variety of perspectives for the last 20-30 years. And having been an unlicensed preparer for the first 5 or so years of my career. [Can you believe that during my entire 5-year course of study for my accounting degree not one person ever mentioned enrolled agents? Nor during the 5 years for my MBA (all at night)?

Before becoming an enrolled agent and joining CSEAINAEA, as a solo practitioner, I did not have a support system and good source of continuing education for more than the basics. There was nowhere to learn about the representation issues or solid updates on the tax laws. CPA meetings didn't provide much tax information back then. They were more focused on FASBs and Auditing Standards and things that had nothing to do with taxes. When I had questions, there was no one to ask. Today, 15-20 years later, there's a lot of good information available to us. And it all started with the EA societies. These days, IRS is doing a pretty good job of making exam and collections policies and procedures more transparent.

But, in the 70's and early 80's, being a lonely practitioner was scary.

It's not much better for the unenrolled practitioner today if they don't have the kind of support system provided by the EA societies and NATP.

Best wishes

Eva Rosenberg, MBA, EA

From: John E Alvarado  
Sent: Saturday, September 26, 2009  
Subject: Notice 2009-60

CCPA:LPD:PR (Notice 2009-60)

I do not believe a tax preparer's competency should be judged on the basis of a title or status. I feel it would be best and more fair to encourage competency, in order to broaden our field, than to assume any title or status is inherently "worthy" in this endeavor.

Thank you for the opportunity to express my views.  
John Alvarado

From: Darlene Bradford  
Sent: Saturday, September 26, 2009  
Subject: Notice 2009-60

I have an accounting & tax service business in a small community and have done 1040 returns only for the past twenty two years. We also have a CPA in our town. The kind of returns I do are very different that the kind he does. In fact, I send all my Corporate and Partnership clients to him for tax preperation. I do between 350 and 400 returns a year, but all of them are 1040 returns. I believe there should be a way a preparer like myself who only does the less complexed returns be licenesed for 1040 returns only. Many clients cannot afford the price of a CPA return when their return is not complexed. Those are my clients. Believe me, there is a need for my type of service. I have had to amend many returns that have come to me from clients trying to do their own returns because of the cost of not only a CPA, but many of the major tax franchise preparers. I am not against being licensed. I attend between 24 and 32 hours of tax training each year. I belong to the NSA organization which requires 24 hours of training a year. I just feel there needs to be a consideration for perparers like myself. Thank you for taking the time to read my comment.

Darlene Bradford,



Sent: Saturday, September 26, 2009  
Subject: Notice 2009-60  
From: Jacob Zigta  
Subject: Tax Preparer Tax Standards

In my 21 years in practice I have seen a lot improperly prepared tax returns this could be negligence or lack of knowledge and also relied on the software to do the job. As tax preparer I do not fall into the group of CPA's, Attorneys, Accountants and enrolled agents. Since 1988 I have been a member of National Society of Accountants and Arizona Society of Practicing of Accountants. As an active member I attend seminars annually. My continuing education and update information provided by the IRS through e-mail helps me to do a better job and abide by its Code of Ethics. There is no substitute for experience. To maintain your knowledge with the tax law change we need continuing education. All preparers should be required to obtain a PTIN and returns monitored for compliance. All preparers should acknowledge and accept standardized Code of Ethics on their PTIN application. Professional affiliation should be mandatory for any circular 230 practitioners. The organization should be responsible for maintaining the CE records for each member providing them with certification they have met their respective obligation. It is impossible to provide competent service without keeping up to date. You need to have the technical knowledge of federal tax law and knowledge of ethical standard. Since we are living in a corrupted world it is vital for the IRS to come up with reasonable regulations for Tax Preparers.

Jacob Zigta

From: Bill Keats  
Sent: Saturday, September 26, 2009  
Subject: Notice 2009-60

I believe that paid preparers should be accountable and professional in the work they do. A qualifying examination should be administered by an independent firm.

In addition, continuing education, such as that for the enrolled agent, should be a requirement for ALL who prepare returns for compensation. The EA exam is the perfect format for all.

EA holders should be exempt from the exam requirement. We took a difficult exam, and have CE requirements on a continuing basis.

There should be a "Code of Ethics" under which we must practice. All returns, whether sent by mail or e-filed, should be signed by the preparer. There are many individuals who take no pride in the profession or in their work, whether they are covered by Circular 230 or not. I have seen returns from non-EAs who should be competent enough to prepare a proper return.

Other than EAs, many others do not do the CE requirements necessary to keep up to date.

Sincerely,  
William F. Keats, EA, CFP

September 28, 2009

Douglas Shulman, Commissioner  
Internal Revenue Service

Dear Commissioner Shulman:

As an education member of the Independent Accountants Association of Michigan and a practicing commercial tax preparer, I am writing to support the recommendations made by our Association for potential tax preparer regulation.

I am not credentialed. I have been preparing federal tax returns for ten (10) years, and was in an unpaid internship for five (5) years prior to that time. My main source of staying current on tax laws and tax changes has been my Association's continuing professional education programs, which I voluntarily attended, and for which credentialed preparers received CPE credits. I believe CPE is the key to providing the best possible counsel to my tax clients.

I support the IAAM's three-point plan to improve regulatory oversight of the profession because it is sensible, easy to administer, and provides incentive for non-credentialed preparers to earn their Enrolled Agent status to solidify their professional standing. I also agree that creating a second tier of preparer registration will entice the vast majority of those operating on the fringes of the industry to enroll and comply, giving the Service and organizations like the IAAM an opportunity to help them elevate their competence and improve taxpayer protection from abuse.

I also strongly support the IAAM's recommendation that a national registry of CPE sponsors be created, and that those granted a sponsorship must meet rigorous standards to provide programs targeted to maintain or improve competence. To better educate taxpayers on contracting a competent preparer, fees from registry sponsors should be used to create and sustain a multi-media public awareness campaign. This would insure taxpayers know what to look for in hiring a tax preparer and it would make it much harder for potential abusers to continue operations.

It is my hope that you and your colleagues will carefully consider the IAAM's common sense approach to better regulating our profession as you prepare your recommendations to President Obama.

Sincerely,  
Donna Prentiss-Bonner

From: Linda Dong  
Sent: Monday, September 28, 2009  
Subject: Notice 2009-60

I am an Enrolled Agent and former Revenue Agent and have been a tax practitioner for over 30 years. I have seen tax returns from all kinds of tax preparers - from the very competent to the blatantly incompetent. I have two main impressions: 1) The preparers who don't sign their returns are the worst. The fact that they don't sign the return is an indication that they either don't know or don't care that they are obligated by law to sign a return they prepare for payment. Because it's not signed, there is no accountability. And even if it should come out that they prepared the return - e.g., the taxpayer is audited and tells the auditor who prepared their return - there are no consequences for the preparer who did not sign. 2) Those who prepare bogus returns often target immigrant and other vulnerable populations who may not know better. These returns often have inflated deductions and bogus tax credits.

I have replied below to the questions posed by the IRS.

1. What types of individuals, entities, and professionals currently work as tax return preparers?

How are their tax return preparation services currently monitored or regulated by professional organizations or the government? How could this monitoring and regulation be improved?

All kinds of individuals, entities and professionals currently work as tax return preparers, from the very competent, professional and ethical to the completely unqualified and unethical. Right now, anyone can prepare a tax return.

There are absolutely no restrictions or qualifications needed. The result is abuse of both individual taxpayers and the entire tax system. Professional organizations monitor their members' credentials and continuing education and encourage ethical behavior, but membership is voluntary. And the reality is that unethical preparers don't join professional organizations! Registration of preparers, their qualifications and compliance can only be done by the IRS. It has to be mandatory and apply to all. And it has to be strongly enforced.

2. How do differences in regulation and oversight affect how the various groups of tax return preparers interact with the Service and taxpayers?

While there are differences in regulation and oversight - depending on whether the preparers are regulated under

Circular 230 or monitored by a professional organization or not regulated at all - the fact remains that ~ tax preparers should be required to have a minimum level of competency in tax preparation and to complete continuing education each year. This is needed to protect the taxpayers and to maintain the integrity of the tax system. Right now, only Circular 230 practitioners are overseen by the IRS; all other preparers have no oversight at all

3. Is there a minimum level of education and training necessary to provide tax return preparation services? If so, who should be responsible for ensuring that a tax return preparer meets this minimum level and how should that be done?

Yes, there is absolutely a minimum level of education and training necessary to be able to prepare tax returns correctly. Ensuring this minimum is met must be a government function. There needs to be an initial examination to ensure minimum competency of 1040 issues - taxable income, allowable deductions, qualifications for credits (especially Earned Income Credit which is much abused), and preparer ethics. This exam wouldn't necessarily have to be administered by the IRS; comparable exams administered by professional organizations, such as the Accreditation Council of Accountancy & Taxations (ACAT), could be approved to qualify. Even commercial organizations, such as H&R Block, could - with suitable oversight - submit their exams to be qualified for this minimum requirement. The continuing education could be provided by professional and commercial organizations that apply and meet minimum requirements. (This is already being done for Circular 230 practitioners, so could be expanded. However, the requirements should be tightened up; the Circular 230 requirements are too vague and not strictly enforced.) I would suggest a minimum of 20 hours of continuing education each year, including 2 hours of ethics. When the preparers renew their registration, e.g., every three years, they would have to certify that they have met their CPE requirements, that they are current with their own taxes and that they have received no criminal convictions related to the tax industry.

4. What, if any, service and outreach should be provided to tax return preparers and taxpayers? Who should provide (and bear the costs for) these needed services?

There would have to be major outreach programs to increase awareness among taxpayers about the importance of using qualified preparers and having their preparer sign the return. This should be done primarily

by the IRS and would be paid for by the registrations fees charged to preparers. It would most likely also be done by legitimate commercial preparers wanting to distinguish themselves from the fly-by-night preparers.

5. Should tax return preparers be subject to a code of ethics, and, if so, what specific behavior should that code promote or prohibit? How would that code of ethics interact with existing ethical standards that may already be applicable?

Tax return preparers should definitely be subject to a code of ethics. The Circular 230 ethics would be a good standard for all preparers. There is currently not much difference between the Circular 230 ethics and the ethics of various professional groups so it would not be difficult to have all existing codes of ethics equal or exceed the Circular 230 standards. In addition there should also be a specific provision providing that a tax preparer must be current with his/her own income tax filings and payment of taxes; otherwise his/her license/registration will be automatically and immediately revoked. They could be reinstated upon proof of compliance and perhaps an additional ethics course. Repeat offenses should require additional requirements for reinstatement, and at some point - maybe three offenses - reinstatement would no longer be allowed. Similarly, a criminal conviction related to the tax practice or financial industry should disqualify one from becoming or continuing as a tax preparer.

6. What, if any, responsibility should the firms or businesses that employ tax return preparers have for the conduct of the individuals they employ?

The person who signs the return is directly responsible for the return, and thus the person who is responsible for the preparation of the return must be required to sign the return. The firm or business that employs tax preparers should be responsible for ensuring that all preparers in their employ are properly licensed or registered and that their work and practices meet ethical standards.

7. What, if any, responsibility should tax return preparer professional organizations have for the education, training, and conduct of their members?

Professional organizations should encourage members to continually improve their skills. They should require continuing education and adherence to a code of ethics, and provide opportunities for continuing education. However, because membership in professional organizations is optional, it cannot take the place of government regulations required of all practitioners.

8. If tax return preparation services should be regulated, what, if any, special regulatory provisions should be made for individuals who are already tax return preparers, licensed attorneys, certified public accountants, enrolled agents, or software providers?

All tax preparers should be required to register, including EAs, CPAs, attorneys and practicing tax return preparers. A new and unique ID number should be given to each registrant and be required on all prepared tax returns. A PTIN or SSN could no longer be used. Regarding the original qualifying exam, those who have passed an equivalent exam - e.g., the EA exam, or the exams administered by the Accreditation Council of Accountancy & Taxation (ACAT) or the California Taxpayer Education Council (CTEC) - should be given a waiver. Tax preparers who are already practicing should not be automatically grandfathered in; the length of time a task has been performed does not ensure the task was done correctly. Current practitioners who did not pass an exam could apply for a waiver based on factors such as their education - e.g. if they took a tax course that did not include an exam - their record of continuing education, and membership in professional organizations.

9. What, if any, additional legislative, regulatory, or administrative rules should the Service consider recommending as part of its proposals with respect to the tax return preparer community?

The IRS needs to address the issue of tax return software. Right now many preparers use TurboTax or equivalent software which allows them to prepare multiple tax returns, each of which defaults to "self-prepared." The IRS then has no way of knowing who prepared the return. Plus it makes it more difficult for the preparer that wants to comply with the rules and sign the return. Changing the default would be a help, but not enough. One solution would be to enable the software to prepare only 10 returns, or to require preparer information if more than 10 returns are prepared. The software is sold to individuals to prepare their individual returns. Allowing 10 returns would allow them to prepare their family returns with the same software, but would prevent commercial preparers from churning out multiple "self-prepared" returns. The preparers that target the immigrant and low income markets and churn out questionable, and sometimes blatantly incorrect, returns are the main preparers that use (or mis-use) this product. The returns I see with bogus deductions and questionable credits are almost universally "self-prepared" yet every one was prepared by a paid preparer. Almost all professional preparers use professional software (including TurboTax's professional software), so this would not affect them or negatively impact the software companies. Many of these companies are also part of the IRS Free-file program, which gives the IRS more leverage over them to force some changes.

The IRS would also have to oversee and enforce the program for it to be effective. The fines collected for violations could fund a large portion of this effort. The IRS computers should automatically compare each preparer listed on a tax return with its list of registered preparers and immediately contact anyone not on their list.

Either they register, or they can't prepare returns. Violators would be fined, and if necessary, prohibited from preparing returns.

All tax preparers have to register and will receive a designation, e.g., Registered Tax Preparer. However, there would still be higher levels of competency, such as EAs, CPAs and attorneys who can represent taxpayers before the IRS. Registering all preparers is implementing a minimum standard that all preparers must meet. The higher standards would still apply.

Linda Dong, EA

From: Anita Staana  
Sent: Monday, September 28, 2009

Dear Sir/Madam:

This is based on my experience with Jackson Hewitt because of business acquisition. I ask them to teach me on their software because I been using my Taxwise for so many years.

For Jackson Hewitt they want us to rely on their software because for them its a common sense.

Knowledge in Tax is important in tax preparation.

From: AMY TILTON  
Sent: Tuesday, September 29, 2009  
Subject: FW: Tax Preparer Legislation

Douglas Shulman, Commissioner  
Internal Revenue Service

Dear Commissioner Shulman:

I am a current member of the Independent Accountants Association of Michigan (IAAM) and a practicing commercial tax preparer. I am sending this letter to support the recommendations made by our Association for potential tax preparer regulation.

I am currently credentialed as an Enrolled Agent and I have been preparing federal tax returns for the last ten years. My main source of staying current on tax laws and tax changes has been my Association's continuing professional education programs. I believe CPE is the key to providing the best possible counsel to my tax clients.

I would ask that you strongly consider to take the position of the IAAM's three-point plan to improve regulatory oversight of the profession because it is sensible, easy to administer, and provides incentive for non-credentialed preparers to earn their Enrolled Agent status to solidify their professional standing. I also agree that creating a second tier of preparer registration will entice the vast majority of those operating on the fringes of the industry to enroll and comply, giving the Service and organizations like the IAAM an opportunity to help them elevate their competence and improve taxpayer protection from abuse.

I also strongly support the IAAM's recommendation that a national registry of CPE sponsors be created, and that those granted a sponsorship must meet rigorous standards to provide programs targeted to maintain or improve competence. To better educate taxpayers on contracting a competent preparer, fees from registry sponsors should be used to create and sustain a multi-media public awareness campaign. This would insure taxpayers know what to look for in hiring a tax preparer and it would make it much harder for potential abusers to continue operations.

It is my hope that you and your colleagues will carefully consider the IAAM's common sense approach to better regulating our profession as you prepare your recommendations to President Obama. I strongly support this measure and hope you will also.

Sincerely,

Amy S. Tilton, E.A.

**Amy S. Tilton, E.A.**

Custom Bookkeeping, Inc.



From: Ken Morton  
Sent: Tuesday, September 29, 2009  
To: Notice Comments  
Subject: Letter\_Supporting\_IAAM\_Recommendations\_on\_Tax\_Preparer\_Regulation\_

Dear Commissioner Shulman:

As a member of the Independent Accountants Association of Michigan and a practicing commercial tax preparer,

I am writing to support the recommendations made by our Association for potential tax preparer regulation.

I am an Enrolled Agent. I have been preparing federal tax returns for 38 years. My main source of staying current on tax laws and tax changes has been my Association's continuing professional education programs. I believe

CPE is the key to providing the best possible counsel to my tax clients.

I support the IAAM's three-point plan to improve regulatory oversight of the profession because it is sensible, easy to administer, and provides incentive for non-credentialed preparers to earn their Enrolled Agent status to solidify their professional standing. I also agree that creating a second tier of preparer registration will entice the vast majority of those operating on the fringes of the industry to enroll and comply, giving the Service and organizations like the IAAM an opportunity to help them elevate their competence and improve taxpayer protection from abuse.

I also strongly support the IAAM's recommendation that a national registry of CPE sponsors be created, and that those granted a sponsorship must meet rigorous standards to provide programs targeted to maintain or improve competence. To better educate taxpayers on contracting a competent preparer, fees from registry sponsors should be used to create and sustain a multi-media public awareness campaign. This would insure taxpayers know what to look for in hiring a tax preparer and it would make it much harder for potential abusers to continue operations.

It is my hope that you and your colleagues will carefully consider the IAAM's common sense approach to better regulating our profession as you prepare your recommendations to President Obama.

Sincerely,  
Kenneth J Morton

From: Natalie Greer  
Sent: Tuesday, September 29, 2009  
Subject: Notice 2009-60

I believe that unlicensed preparers SHOULD have to pass a competency exam. However, I also think that said examinee should have at their fingertips all of the tools that would be available to them when preparing returns in their offices. Access to IRS websites and other tax law resources should be available when taking the test. I do not charge my clients more if I have to research a tax position. I do a lot of research when I am preparing returns rather than relying on my memory.

Natalie Greer  
Sage Accounting  
Unlicensed preparer

From: Chester L. Surant  
Sent: Tuesday September 29 2009  
Subject: Notice 2009-60  
September 29,2009

Dear Commissioner Shulman:

As a member of the Independent Accountants Association of Michigan and a practicing commercial tax preparer, I am writing to support the recommendations made by our Association for potential tax preparer regulation.

I am Tax Practitioner and Accountant. I have been preparing federal tax returns for 25+ years. My main source of staying current on tax laws and tax changes has been my Association's continuing professional education programs. I believe CPE is the key to providing the best possible counsel to my tax clients.

I support the IAAM's three-point plan to improve regulatory oversight of the profession because it is sensible, easy to administer, and provides incentive for non-credentialed preparers to earn their Enrolled Agent status to solidify their professional standing. I also agree that creating a second tier of preparer registration will entice the vast majority of those operating on the fringes of the industry to enroll and comply, giving the Service and organizations like the IAAM an opportunity to help them elevate their competence and improve taxpayer protection from abuse.

I also strongly support the IAAM's recommendation that a national registry of CPE sponsors be created, and that those granted a sponsorship must meet rigorous standards to provide programs targeted to maintain or improve competence. To better educate taxpayers on contracting a competent preparer, fees from registry sponsors should be used to create and sustain a multi-media public awareness campaign. This would insure taxpayers know what to look for in hiring a tax preparer and it would make it much harder for potential abusers to continue operations.

It is my hope that you and your colleagues will carefully consider the IAAM's common sense approach to better regulating our profession as you prepare your recommendations to President Obama.

Sincerely,  
Chester L. Surant

From: Pat Cornett  
Sent: Tuesday, September 29, 2009  
Subject: Notice 2009-60

I am not a CPA, attorney, or enrolled agent. However, I have been a tax practitioner for over 25 years and have earned the designation of Accredited Tax Preparer (ATP) thru the Accreditation Council for Accountancy & Taxation. I've owned my tax & accounting firm for the past 20 years and attend as many CPE seminars as I can. During the past 25 years I have seen new clients and have had a chance to see their prior years returns. Believe me, I have sure been surprised by the sloppy, unprofessional, inaccurate returns prepared by some of those people who are licensed!!

Also from some who are not licensed.

In my practice, I make every effort to prepare a concise, accurate, return for all my clients. In so doing, I make them aware of the legalities of new tax laws, and caution them that I will not be a party to any questionable items or frivolous intentions. I take pride in my work and my office staff has been trained to do the same. I feel that unlicensed preparers, such as myself, should be held accountable and should be registered with IRS, by whatever procedure necessary. I would think that someone with as many years experience as I have and a good clean record with IRS could be "Grandfathered". However, I am willing to participate in an exam or any registration procedure deemed necessary.

I would Like to add: It is time to do away with these people who temporarily set up shop and loan money or cash to buy a new car, based on the clients W-2 and a halfway prepared tax return.

After April 15th, they are long gone. In addition, I feel the RAL's (Refund Anticipation Loans) should not be allowed. Thank you.

Patricia A. Cornett, ATP  
Professional Tax & Business Services

Sent: Tuesday, September 29, 2009  
Subject: Tax Preparer Standards

To remove the fear of existing tax preparers grandfather in anyone who has been preparing returns for more than a certain number of years lets say five. This could include some kind of check to determine how many if any problem returns were submitted by each prepare and if the number of problem returns is over a certain amount they aren't grandfathered in.

Second have a standardized(s) way(s) for obtaining a license.

Such as:

One pass a test.

Two take and complete required courses

Three have a degree in business and a certain number of years experience in preparing returns.

Require all licensed preparers to acquire a set number of CPE each year. This may include specific courses the licensing agent deems needed.

Bernard Erwin  
ERWIN & ASSOCIATES  
Accounting & Tax Preparation

From: Mike Jewell  
Sent: Tuesday, September 29, 2009  
Subject: Tax Preparer Regulation

Dear Commissioner Shulman:

As a member of the Independent Accountants Association of Michigan and a practicing commercial tax preparer,

I am writing to support the recommendations made by our Association for potential tax preparer regulation.

I am currently not a credentialed paid preparer. However I have been preparing federal (and state) tax returns for over 25 (Twenty-five) years. This has been (and remains) my soul source of income. During this time I have been a member of IAAM and have taken a minimum 20 hours(twenty) of CPE Credits per year. My main source of staying current on tax laws and tax changes has been my Association's continuing professional education programs. I believe CPE is the key to providing the best possible counsel to my tax clients.

I support the IAAM's three-point plan to improve regulatory oversight of the profession because it is sensible, easy to administer, and provides incentive for non-credentialed preparers to earn their Enrolled Agent status to solidify their professional standing. I also agree that creating a second tier of preparer registration will entice the vast majority of those operating on the fringes of the industry to enroll and comply, giving the Service and organizations like the IAAM an opportunity to help them elevate their competence and improve taxpayer protection from abuse.

I also strongly support the IAAM's recommendation that a national registry of CPE sponsors be created, and that those granted a sponsorship must meet rigorous standards to provide programs targeted to maintain or improve competence. To better educate taxpayers on contracting a competent preparer, fees from registry sponsors should be used to create and sustain a multi-media public awareness campaign. This would insure taxpayers know what to look for in hiring a tax preparer and it would make it much harder for potential abusers to continue operations.

It is my hope that you and your colleagues will carefully consider the IAAM's common sense approach to better regulating our profession as you prepare your recommendations to President Obama.

Sincerely,  
Michael W. Jewell

From: Laurice Simmonds  
Sent: Tuesday, September 29, 2009  
Subject: Notice 2009-60

This commenter was presumably unaware of the many CPAs who are unable or unwilling to prepare their own return and pay for the services of a knowledgeable unenrolled preparer to do so. Please be aware that some CPAs are GL public accountants, focus on estate planning and the sort. Many are not focus on tax preparation but rather, hire temporary help during the tax season to complete the taxes. Please also note the Most Tax Software Vendors carry the Master EFIN for the tax preparers utilizing their tax software to prepare taxes for their customers. Additionally, those with Master EFINs also hire staff and maintain staff that are tax preparers. It is unreasonable for IRS to assume that only CPAs and Attorneys are competent rather than being focus on ways to encourage competency and hold all tax preparers accountable than to assume that any title or status is inherently "worthy" in this endeavor. Rest assure many tax preparers who are licensed and current in CPE credentials, received updated trainings and are members of professional accounting associations are quite as competent and most important have accurate understanding of the tax law both federal and state in retropect. Thank *you* for allowing me to provide *you* with my comment.

From: Larry E. Barnes  
Sent: Tuesday, September 29, 2009  
Subject: Regulation of unenrolled tax preparers

To Whom It May Concern:

I would like to comment on the current consideration by the Internal Revenue Service to regulate unenrolled tax preparers. For the past 9X years, I have owned and operated a full-time one-person business providing accounting and tax services to small businesses (primarily sole proprietorships) and some individuals. I have on occasion prepared tax returns for corporations and partnerships but generally I concentrate on preparing IRS Forms 1040 and applicable schedules. While I am not an attorney, CPA, or EA, I work hard to keep current with the tax laws, rules, regulations and changes. hold a Master's Degree in Community Services Administration (Public Administration) with an emphasis in accounting and finance. While I have never taken the examinations to become an EA or CPA, I believe if I am preparing tax returns and providing accounting services for compensation, I should know the tax laws. I take many training sessions and earn CPE hours just as a CPA and EA. The training sessions include topics just as Ethics, tax law updates, etc. I earn the CPE hours at the Maine Tax Forum, Tax Practitioners Workshop, and many online training sessions offered by the IRS and others. I subscribe and read daily the IRS e-News for Tax Professionals, attend webinars, updates and newsletters. I am a member of the National Association of Tax Practitioners (NATP), the National Association of Accountants (NSA), and the Maine Association of Professional Accountants (MAPA.) I read every newsletter that they publish as they contain current tax and accounting information, including changes in tax laws and regulations. I also have taken and passed the H&R Block training course to prepare tax returns. I mention all of this to say that I support some form of regulation of unenrolled tax preparers. I believe if anyone who is paid to prepare tax returns for others should be trained and tested of at least the basic tax laws. I do not believe the test should be as comprehensive as the EA exam or the CPA exam. Finally, I am not in favor of only allowing those who are an EA, CPA or attorney to prepare income tax returns for compensation. Quite frankly, I don't believe there are enough with those credentials to prepare all the income tax returns that are currently being prepared for compensation at this time. Thank you for reading this and for allowing input from an unenrolled tax preparer.

Sincerely,  
Larry E. Barnes  
Barnes Accounting Services, LLC



From: Richard L Petrucha  
Sent: Tuesday, September 29, 2009  
Subject: COMMISSIONER SHULMAN RE:TAX PREPARER LEGISLATION  
September 29, 2009

Dear Commissioner Shulman:

As a member of the Independent Accountants Association of Michigan and a practicing commercial tax preparer, I am writing to support the recommendations made by our Association for potential tax preparer regulation.

I am an Enrolled Agent (EA) and an ABA (Accredited Business Accountant). I have been preparing federal tax returns for Twenty Five years. My main source of staying current on tax laws and tax changes has been my Association's continuing professional education programs. I believe CPE is the key to providing the best possible counsel to my tax clients.

I support the IAAM's three-point plan to improve regulatory oversight of the profession because it is sensible, easy to administer, and provides incentive for non-credentialed preparers to earn their Enrolled Agent status to solidify their professional standing. I also agree that creating a second tier of preparer registration will entice the vast majority of those operating on the fringes of the industry to enroll and comply, giving the Service and organizations like the IAAM an opportunity to help them elevate their competence and improve taxpayer protection from abuse.

I also strongly support the IAAM's recommendation that a national registry of CPE sponsors be created, and that those granted a sponsorship must meet rigorous standards to provide programs targeted to maintain or improve competence. To better educate taxpayers on contracting a competent preparer, fees from registry sponsors should be used to create and sustain a multi-media public awareness campaign. This would insure taxpayers know what to look for in hiring a tax preparer and it would make it much harder for potential abusers to continue operations.

It is my hope that you and your colleagues will carefully consider the IAAM's common sense approach to better regulating our profession as you prepare your recommendations to President Obama.

Sincerely,  
RICHARD L PETRUCHA EA,ABA\*  
\*Accredited Business Accountant

From: Stan Blasen  
Sent: Wednesday, September 30, 2009  
Subject: Credentializing Tax Preparers

Dear Commissioner Shulman:

As a member of the Independent Accountants Association of Michigan and a practicing commercial tax preparer, I am writing to support the recommendations made by our Association for potential tax preparer regulation.

I am a non-credentialed tax preparer. I have been preparing Federal Tax Returns for the past 28 years. My main source of staying current on tax laws and tax changes has been my Association's continuing professional education programs. I believe CPE is the key to providing the best possible counsel to my tax clients.

I support the IAAM's three-point plan to improve regulatory oversight of the profession because it is sensible, easy to administer, and provides incentive for other non-credentialed preparers to earn their Enrolled Agent status to solidify their professional standings. I also agree that creating a second tier of preparer registration will entice the vast majority of those operating on the fringes of the industry to enroll and comply, giving the Service and organizations like the IAAM an opportunity to help them elevate their competence and improve taxpayer protection from abuse.

I also strongly support the IAAM's recommendation that a national registry of CPE sponsors be created, and that those granted a sponsorship must meet rigorous standards to provide programs targeted to maintain or improve competence. To better educate taxpayers on contacting a competent preparer, fees from registry sponsors should be used to create and sustain a multi-media public awareness campaign. This would insure taxpayers know what to look for in hiring a tax preparer and it would make it much harder for potential abusers to continue operations.

It is my hope that you and your colleagues will carefully consider the IAAM's common sense approach to better regulating our profession as you prepare your recommendations to President Obama.

Sincerely,  
Stan Blasen  
Mid Michigan Tax Preparer

From: Carol  
Sent: Wednesday, September 30, 2009  
Subject: Notice 2009-60

To the IRS Counsel,

I agree with the suggestion below:

"If you are a practitioner covered by Circular 230, some commenters suggested, "All individuals who prepare more than 10 federal individual income tax returns (Series 1040) for compensation in a calendar year should be required to register with the IRS Office of Professional Responsibility and be licensed as a 'licensed tax practitioner: That includes CPAs and attorneys. Only these licensed practitioners should be allowed to prepare a federal individual tax return for a fee."

Along with a special license I also feel that all tax preparers that receive payment for services rendered should be required and should provide proof that he or she has taken a course each year which covers the current tax law and changes to such. If the individual has not taken a course then that individual should not be allowed to hold themselves out as a "paid tax preparer."

Also, if a tax preparer has sufficient knowledge of the tax law and a taxpayer requests that the individual represent them before the IRS then that individual's wishes should be honored by the IRS. It is ridiculous that an agent or representative of the IRS refuse to speak with a representative simply because they are neither an attorney, CPA, or enrolled agent. If the individual has the information that the agent needs then the agent should gather the information. It should not be a requirement that you have a third person involved that meets the IRS' criteria simply to use as a conduit for providing the information you spoon feed to them to repeat verbatim to the agent on the phone. Your agency has invoked this rule under the guise of "protecting the taxpayer" however, what you have actually done is handicap the system and matters that could be settled with one phone call end up taking multiple phone calls and several letters. All because your agents use this rule to prevent information being provided in a timely manner and to prolong the length of time it takes to resolve a tax matter. It is time that the agency recognize the goal that needs to be achieved, which should be resolution of the issue, and not bury the issue under bureaucratic red tape and increase the expense of the individual taxpayer and the expense incurred by the IRS, and ultimately the US taxpayers, with multiple phone calls with multiple agents and multiple letters! A government agency that is actually and truly interested in cost effectiveness and really implements changes that bring about cost effectiveness would be refreshing and unusual!

A very good example of the agents losing focus of the objective by getting caught up in bureaucratic red tape is the IRS' form 2848 "Power of Attorney and Declaration of Representative" is the completion of line 3, Tax Matters. The following is the exact instructions for line 3: "Enter the type of tax, the tax form number, and the year(s) or period(s) in order for the power of attorney to be valid. For example, you may list "Income, 1040" for calendar year "2006" and "Excise, and 720" for "2006" (this covers all quarters in 2006). For multiple years or a series of inclusive periods, including quarterly periods, you may list 2004 through (thru or a hyphen) 2006. For example, "2004 thru 2006" or "2nd 2005 - 3rd 2006". For fiscal years, enter the ending year and month, using the YYYYMM format. Do not use a general reference such as "All years," "All periods," or "All taxes." Any power of attorney with a general reference will be returned. Representation can only be granted for the years or periods listed on line 3.

You may list the current year/period and any tax years or periods that have already ended as of the date you sign the power of attorney. However, you may include on a power of attorney future tax periods that end no later than 3 years after the date the power of attorney is received by the IRS. The 3 future periods are determined starting after December 31 of the year the power of attorney is received by the IRS. You must enter the type of tax, the tax form number, and the future year(s) or period(s). If the matter relates to estate tax, enter the date of the decedent's death instead of the year or period."

We have sent completed forms 2848 with line 3 stating Type of tax as Employment, Tax Form Number as 941, 940, W-3, W-2, 941C, Years or Periods as 2008, 2009, 2010. We have received the form 2848 returned and unprocessed because of the following: line 3 incorrectly prepared. "The years or periods should reflect each specific quarter. " Or "You cannot request future years." Or "At the time of processing the attached form 2848, we could not verify that your representative prepared the return or that the return is under Examination. You may either resubmit the Form 2848 with supporting documentation that the representative did prepare the return and that the return is under Examination or submit a completed form 8821, Tax Information Authorization, which is enclosed."

As you can plainly see these reasons do not agree with your own form's instructions. Instead of resolving the problem or taking pre-emptive measures to resolve a problem, the IRS takes reactionary measures. You might find it interesting to know the form 2848 was stamped with the date Feb. 23, 2009. The taxpayer in question received a notice dated Feb. 24, 2009 regarding form 941, period 3/31/2008, name of return Employers Quarterly Federal Tax Return. If the IRS representative had processed the form 2848 on Feb. 23, 2009 the process of resolving the issues on Feb. 24, 2009 regarding form 941 Q/E 3/31/08 could have been expedited.

Sincerely  
Carol E. Miller

From: Mr Bill The Tax Man  
Sent: Wednesday, September 30, 2009  
Subject: Fw: Notice 2009-60

As a Oregon Licensed Tax Professional, I would like to add my comments for "national licensing of tax practitioners"

I firmly believe that each state should be responsible for licensing and "policing" all tax professionals. They already do the CPA's and Lawyers. Here are my reasons:

Each state has it's own tax issues that need to be addressed and I am sure if push came to shove, they would rather control the licensing so they can exert pressure to make sure that each states tax laws are followed, even the states that have no income tax have Business and Occupation and Sales tax issues.

Oregon has been licensing tax practioners since 1973. Everyone that wants to prepare personal income taxes for money has to be registered in Oregon. They have to pass a compentancy test of both Federal and State tax laws and issues. Even Enrolled Agents must pass the Oregon portion of the exam to be able to practice in Oregon.

Oregon has two levels of practitioners. The Licensed Tax Preparer and the Licensed Tax Consultant (LTC). The preparer can only work in an office run by an Licensed Tax Consultant (LTC), an Public Accountant, or a CPA, they cannot work without supervision under Oregon statutes. The Licensed Tax Consultant can own and run their own business. I was an LTC before I became an Enrolled Agent. Before the Service Centers were split up for personal returns, all Oregon generated tax returns went to the Ogden Service Center. We were told that the error rate for the Oregon licensed practitioners was less than One Half of One percent. Ogden "loved" the Oregon practitioners due to the professionalism and correct reporting on the returns they submitted. Oregon still has folks that think they can prepare taxes for pay without being licensed and signing the returns. I know that I have corrected and represented filers of "self prepared returns" that they themselves didnot prepare. I did an amended return for a client that had a person that worked in Washington State prepare their returns and on her business card after her name, she listed ERO as credentials. I am sorry but an Electronic Return Originator does not license a person to prepare taxes.

I don't think that the Internal Revenue Service has the money or people resources to police all the practioners that are currently practicing let alone the thousands of practioners nation wide.

I also believe, that the already licensed Oregon practitioners should be grandfathered in to any federal licensing program since we have to pass the exam to practice in Oregon and are required to have at least 30 hours of continuing education each year including ethics.

I have mixed feelings as to other practitioners in states that do not have licensing requirements as to their compentancy and if they should be grandfathered into a national licensing program. What is their compentancy level? How would you judge their compentancy level since they are not licensed by any government entity. I also believe that annual testing is too costly for any agency. how would they stagger the time for getting a test, and renewal. Just like tax season, you can't get everyone done overnite. I believe that the Oregon Licensed practitioners are all very well versed in tax law and since we are licensed and have to have the continuing education in order to renew our licenses each year, stay on top of all the latest tax law changes to the best of our ability.

If you have further questions of me or want to clarify any of my comments, please feel free to contact me at my email address or by telephone number listed below.

Bill R. McCracken, EA, LTC  
Accounting, Tax & Financial Services

From: Tina Rickards  
Sent: Thursday, October 01, 2009  
Subject: Notice 2009-60

I have been preparing taxes for over 30 years and feel it is my responsibility, each year to get current tax law education. I do not feel that a specific title or degree makes one competent to prepare tax returns.

Competency comes from proper education of the specific subject matter and experience in the field. I think that the public would be best protected and served if preparers were required to take a competency exam to be licensed and then required to take continuing education to renew that license.

GEORGE A. SMITH  
Enrolled To Practice Before The Internal Revenue Service  
October 1, 2009

Re: Return Preparer Initiative

Introduction:

I am a small town tax preparer in a Northwest Indiana community southwest of Chicago Illinois. I am Enrolled To Practice Before The Internal Revenue Service. I have been preparing state and federal income tax returns since 1972; I prepare Individual, Estate, Partnership, and Corporation income tax as well as Payroll, and Gift Tax returns for compensation.

I am a member of The National Association of Enrolled Agents (NAEA), the National Society of Tax Professionals (NSTP), and the National Association of Tax Practitioners (NATP).

I have reviewed many of the comments recently proffered by individuals, preparers, and practitioner groups on the "Preparer regulation" issue. Many interesting and poignant comments have been received and reviewed in light of Commissioner Shulman's Return Preparer Initiative.

Many, if not most, unlicensed - unregulated preparers are decent, competent, diligent, and honest. Their community is well served by them and they are a credit to themselves and the public interest.

However, as we have become more aware recently there exists a small group which seeks to profit at the public expense. It is these and their constituency which perpetuates this necessity for regulation.

Effective regulation balances *perceived* benefits against the burden imposed.

It is with this concept in view that I address this august body.

Recommendations:

1. All paid preparers must register with the Internal Revenue Service (IRS).

a. The IRS shall issue each registrant a Preparer Tax Identification number (PTIN).

b. Return preparers must use the IRS issued PTIN on each and every return prepared for compensation

c. The IRS is to monitor paid preparers by metrics developed for tracking using the PTIN.

2. Continuing Professional Education (CPE)

a. Paid preparers shall complete not less than 8 hours of CPE on an annual basis.

b. Paid Preparers shall complete not less than 1 hour of ethics training annually.

3. Testing & Licensing

a. Testing must not be prerequisite for the preparation of income tax returns. Testing demonstrates neither competence, ability, nor expertise.

b. Unlicensed preparers play a vital role in our tax system.

Taxpayers want the best possible product at the lowest possible cost and the least inconvenience. Testing provides a false sense of confidence - many would not discern any difference between preparers or practitioners.

4. Office of Professional Responsibility (OPR)

a. OPR should be given the responsibility to oversee preparers.

b. Paid return preparers must adhere to standards of Competence and Due Diligence.

c. Standards must be adopted and enforced uniformly.

d. Rev. Proc. 81-38 must be revised and updated to include standards for all paid preparers not just those who represent clients before the Examination function.

5. Public Education and Information

a. The IRS must educate the taxpaying public through advertising and Public Service Announcements.

b. Paid returns must be signed by the preparer and clearly designate the name and address of such preparer.

Conclusion:

Paid preparers and the IRS must maintain a symbiotic relationship.

New programs must benefit the Service, Taxpayers, and Preparers.

Fewer errors and the elimination of abuse are goals to which we must aspire.

Thank you for your time and consideration.

From: Ran Bar-Mashiah  
Sent: Tuesday, October 06, 2009  
Subject: Combat

I AM A CPA. IF YOU WANT TO COMBAT FAUD, INCOMPETENCY AND DOWNRIGHT CRIMINALITY AMONG TAX PREPARERS YOU HAVE TO GET RID OF H&R BLOCK. THEY ARE GOING TO HURT THE GOVERNMENT TAX REVENUES FOR GENERATIONS TO COME. DO NOT START BY CHASING AFTER THE "BASEMENT TAX PREPARERS" H&R BLOCK IS YOUR BIGGEST PROBLEM. AND JACKSON HEWITT, AND LIBERTY TAX, AND THEN THE SMALL TAX PREPARERS.



From: Marc Standig  
Sent: Wednesday, October 07, 2009  
Subject: Licensing of Tax Preparers; Non-Legislative Alternative

While Congress and States go back and forth about how to regulate tax preparers, how about a non-legislative alternative? The IRS website could have a search engine that requires a PTIN number. Taxpayers could be encouraged to see if their tax preparer is listed with the IRS via public service announcements. Neither this nor legislation will eliminate the "self-prepared" return completed by a cash-only invisible preparation service. If the IRS utilizes a PTIN search **on** the website, the consumer will be educated about the PTIN and how to locate a tax preparer who is registered via the PTIN number with the IRS.

Best wishes,  
Marc S. Standig, EA

October 9, 2009

**Re: Notice 2009-60**

Internal Revenue Service:

We are responding to the above referenced notice on behalf of the Members of the California Society of Enrolled Agents (CSEA). CSEA appreciates the opportunity to respond to the IRS request for comments about Standards of Conduct for the Tax Return Preparer Community and Increased Taxpayer Compliance. We applaud the IRS for seeking the input of tax preparers, and we appreciate the extension granted by Karen Hawkins, Director of the Office of Professional Responsibility (OPR), to present these comments.

CSEA acknowledges that what ever form of oversight of all currently unregulated tax preparers takes, it will be a number of years before all preparers are covered. A phase in process for both testing and renewal will need to be implemented similar to how the Enrolled Agents moved to the rolling renewal cycle currently in place.

CSEA is in agreement with the statement made by National Association of Enrolled Agents (NAEA) spokesperson Frank Degen, EA, at the July 30, 2009 Taxpayer Forum, but would also like to add some comments from a California perspective.

**What types of individuals, entities, and professionals currently work as tax return preparers? How are their tax return preparation services currently monitored or regulated by professional organizations or the government? How could this monitoring and regulation be improved?**

CSEA is a membership organization of Enrolled Agents and other tax professionals. The Members come to the profession from a myriad of ways: college graduates, following in the family business, former IRS employees, retired military, and many others. In California, all Enrolled Agent tax preparers are federally licensed; CPAs and attorneys are state licensed and regulated, and other paid tax preparers are registered by the California Tax Education Council (CTEC) as a Certified Registered Tax Preparer (CRTP) to prepare taxes in California.

Registration with CTEC includes:

- o 60 hours of qualifying tax education
- o 20 hours of continuing tax education each year (12 hours federal, 4 hours California, and 4 hours of either federal or California. A 2-hour ethics requirement will also be implemented in the 2010/2011 renewal cycle)
- o Maintaining a \$5,000 tax preparer bond
- o Awareness of the Tax Preparer Code of Conduct and Responsibilities

CSEA has been an avid supporter and contributor to this legislatively mandated registration.

CSEA is one of the organizations that has a standing seat on the CTEC Board of Directors along with NAEA and two of our separately incorporated Chapters in California.

Although CTEC has our full support, we do recognize improvements could be made for a national model.

CRTPs are not required to take any competency testing and that is a major weakness in the regulation of tax preparers in California. Improvements to monitoring and regulation in California could also be made through educational campaigns to the taxpayer. In general, Californians do not understand the difference between Circular 230 tax preparers and

CRTPs. CTEC also has no enforcement authority to either discipline a preparer or remove their registration.

This is a critical element that must be in place for a national program.

**How do differences in regulation and oversight affect how the various groups of tax return preparers interact with the Service and taxpayers?**

CSEA Members strive to establish good working relationships with the IRS and the California state taxing agencies. Our Members have built up these professional relationships to better serve our clients. EAs regularly represent taxpayers before the IRS and have a full understanding of the importance of running an ethical practice and maintaining compliance with the tax administration. It is evident that not all tax preparers have the same respect and relationship with the IRS, which is evidenced in some of the facts presented by Mr. Degen at the IRS panel on July 30, 2009. California also has a tremendous tax gap estimated at \$6.5 billion annually. CSEA Members work in partnership with the Franchise Tax Board (FTB) in their efforts to reduce the tax gap in California.

Currently, there is an inconsistency in the oversight of tax preparers across the nation and that elevates the public's inability to find competent and ethical tax preparation services. Any individual preparing taxes for a fee should be held to a very high standard to ensure compliance with the law and protection for taxpayers.

CSEA concurs with the July 30th statement by Frank Degen, EA. "If we succeed in providing strong, common sense national return preparer oversight, we will protect taxpayers, elevate the profession, and level the playing

field for those currently subject to Circular 230.” CSEA stands willing to work toward national return preparer oversight.

**Is there a minimum level of education and training necessary to provide tax return preparation services? If so, who should be responsible for ensuring that a tax return preparer meets this minimum level and how should that be done?**

Yes, a minimum level of annual education and training is not only necessary, but is crucial. No one denies the tax system is complicated, and with the number of changes to the tax code that have been occurring on a regular basis, education becomes critical. Continuing education is essential to sustain skills and keep up with changing tax laws. CSEA Members agree to complete 14 more hours of training each year than is mandated by the IRS. We believe that the number of hours required by Circular 230 should be extended to all tax preparers (24 hours annually or 72 hours every three years). We also believe that OPR is the appropriate body that should be responsible for ensuring that a tax return preparer meets the minimum level of any established criteria. Only a government agency with appropriate authority and legal standing can do the job that needs to be done. The criteria should encompass consistency in testing, with various levels (individual, individual with schedules, trusts and estates and corporations), thus demonstrating proficiency for each level as an individual’s career progresses. Prometrics, as example, has successfully implemented testing for many professions, including Enrolled Agents and CPAs. We envision that the Enrolled Agent license would be the top level of the tax profession, and that there should be no grandfathering except for the current EAs, CPAs and tax attorneys, who have already demonstrated their proficiency through testing.

**What, if any, service and outreach should be provided to tax return preparers and taxpayers? Who should provide (and bear the costs for) these needed services?**

As we can attest in California, outreach is a vital and crucial part of any program and should build on the existing regulatory framework and consolidate administration and enforcement under the Office of Professional Responsibility. Centralization would ensure that all taxpayers are receiving the same message, ensuring a universal standard with the same code of ethics and continuing education requirement. Preparers will no longer be able to move around the country trying to escape oversight by a state regulatory agency.

Sufficient money will initially have to be allocated to launch an advertising/outreach campaign to ensure all taxpayers are informed and understand the new regulatory framework and the consequences of not using a tax preparer designated within that framework. Eventually, based on the number of preparers doing U.S. tax returns annual or periodic fees should be adequate to both pay for the Office of Professional Responsibility and its oversight activities, and an ongoing advertising/outreach campaign for the public.

**Should tax return preparers be subject to a code of ethics, and, if so, what specific behavior should that code promote or prohibit? How would that code of ethics interact with existing ethical standards that may already be applicable?**

CSEA believes an ethics component is a vital part of any continuing education requirements.

The components included in Circular 230 that provide a basis for ethical behavior are essential.

All tax preparers must be held to the same standards to ensure the integrity of the tax system. If an enhanced or expanded code of ethics is desirable, there are many examples across the United States from both state and national associations that deal with professionals and their behavior.

**What, if any, responsibility should the firms or businesses that employ tax return preparers have for the conduct of the individuals they employ?**

CSEA believes that it should be the individual that is certified or licensed. Many times it is a company attitude that perpetuates irresponsible activity of its employees. Firms should be held to a higher standard of oversight responsibility to ensure that employees are indeed, following the law. If disciplinary action is to be taken against an individual, the firm should be scrutinized closely to ensure that disciplinary actions are not warranted firm wide based on faulty or fraudulent business policies and practices.

CSEA supports the IRS and the goals of increasing compliance and maintaining high ethical standards for all tax practitioners. If you have any questions or need additional information, please contact me or Catherine A. Apker, CAE,

Thank you in advance for your attention and consideration as you move forward with addressing these issues.

Sincerely,

David Shaw, EA  
CSEA President 2009-2010

From: Simone Maloney  
Sent: Saturday, October 10, 2009  
Subject: Tax Return Preparers Initiative

I don't believe tax preparers should be registered. IRS know who the preparers are and the mistakes they make. They may not regulate all preparers (perhaps never will) because there are many who are clever enough to evade all regulations.

I believe IRS can demand that preparers, whether they are attorneys, certified public accountants, public accountants, enrolled agents, & unenrolled preparers, submit continuing education credits each and every year. As for testing all preparers, I believe that can be a misleading endeavor, because some individuals can do great in tests and be ignorant when applying theories to actual problems, while others cannot pass a test but are very capable in applying what they've learned. Also, testing does not consider all the research that one must do in order to comply with the tax code.

IRS should advertise that a preparer who doesn't sign the return is breaking the law. I believe that would be **more** effective than any other measure could do. The taxpayers are very concerned about their tax returns being prepared correctly. Advertising will alert the taxpayers that there could be a problem.

October 11, 2009

Dear Commissioner Shulman:

As a member of the Independent Accountants Association of Michigan and a practicing commercial tax preparer, I am writing to support the recommendations made by our Association for potential tax preparer regulation.

I am an Enrolled Agent, enrolled by the IRS. I have been preparing federal tax returns for thirty (30) years. My main source of staying current on tax laws and tax changes has been my Association's continuing professional education programs. I believe CPE is the key to providing the best possible counsel to my tax clients.

I support the IAAM's three-point plan to improve regulatory oversight of the profession because it is sensible, easy to administer, and provides incentive for non-credentialed preparers to earn their Enrolled Agent status to solidify their professional standing. I also agree that creating a second tier of preparer registration will entice the vast majority of those operating on the fringes of the industry to enroll and comply, giving the Service and organizations like the IAAM an opportunity to help them elevate their competence and improve taxpayer protection from abuse.

I also strongly support the IAAM's recommendation that a national registry of CPE sponsors be created, and that those granted a sponsorship must meet rigorous standards to provide programs targeted to maintain or improve competence. To better educate taxpayers on contracting a competent preparer, fees from registry sponsors should be used to create and sustain a multi-media public awareness campaign. This would insure taxpayers know what to look for in hiring a tax preparer and it would make it much harder for potential abusers to continue operations.

It is my hope that you and your colleagues will carefully consider the IAAM's common sense approach to better regulating our profession as you prepare your recommendations to President Obama.

Sincerely,  
Patricia Y. Hildreth' EA

From: Vern ice Johnson-Warren  
Sent: Wednesday, October 14, 2009  
Subject: "Notice 2009-60"

Sorry I am a bit late with my comment but I wanted to thank you for the opportunity to express our concerns in the industry that we all seem to have a passion for. I am an unenrolled tax preparer with an MBA and a doctorate in Business Administration. I am one who currently has an home business of only about 200 tax preparations per year. However, I am also probably one the cheapest preparer in the nation and I try to keep my clients to a small percentage so I can explain to each customer the basis of taxation in America. Many of my clients come back even through my philosophy is to teach each client to eventually learn to do their own tax preparation in the future. It is amazing to see the "A-Ha" moment when they finally connect the dots and have an understanding of taxes. Tax season is fun and my clients make my day!

The down part of my profession is that the prices of tax preparation is skyrocketing! Moreover, many unqualified preparers are joining income pool to gain financial incentives by charging clients high fees.

On the other hand, I am finding many previous returns unsigned or preparer used an commercial software program and still charged \$250 to complete the forms. I believe this starts with education to the tax preparer.

We have to get commercials out to warn people of the various scams out there to gain their trust. Currently, the line that gets me the most is that the preparer once worked for the IRS? And my answer is always that if they worked for the IRS then they will know that they have to sign the return. Moreover, people believe that if they pay more they will get more. Yet, the general public is not very aware of what is an CPA or an enrolled agent? Or what does MBA stands for? What are the qualifications of being an preparer? I honestly believe that the industry has to tighten up on the qualifications of being a preparer.

In conclusion, I believe that education and an change in preparer qualifications is the major components to a better system.

Vernice Iohnson-Warren  
V. Warren & Company  
Illinois

Sent: Wednesday, November 04, 2009  
Subject: Re: Public Comment

STATEMENT OF APRIL GUTIERREZ, EA, LTC  
PACIFIC NORTHWEST TAX SERVICE  
Regarding IRS Notice 2009-60  
August 31, 2009

I am Managing Director of Pacific Northwest Tax Service located in Portland Oregon. My husband and I formed this company in 1995. We operate three tax offices which prepare between 2,000 - 3,000 tax returns annually. While individual filers are our primary client base, our tax practice also includes partnership, corporate and fiduciary tax clients. We employ a staff of a year-round employees with the number growing to about 20 during tax season. All members of our staff are licensed under Oregon law as LTPs or LTCs with the exception of our CPA who falls under the Oregon Board of Accountancy.

I write this statement to provide perspective from the point of view of an independent tax preparation business which has successfully operated under the licensing laws of the State of Oregon for the past 17 years. I begin with an introduction to my own history and then directly answer key questions put forth by the IRS in Notice 2009-60.

**Background as a Jackson Hewitt franchise owner**

I first entered the industry in December of 1992 as an unenrolled and unlicensed tax preparer after purchasing a Jackson Hewitt Tax Service franchise. At the time I had no knowledge of tax law however my husband was interested in going into business and his background in accounting made the idea of a purchasing a tax service franchise seem like a good one.

At the time, Jackson Hewitt ran a week-long school to educate franchise owners on policy and procedures, electronic filing, marketing etc. My husband (Jess) and I both attended this educational program before moving to Portland and taking ownership of a small franchise in Portland. Jackson Hewitt's franchise owner training was directed at the business aspects of running a tax office and staying in compliance with franchisor policies. No tax law training was provided. We owned and operated our Jackson Hewitt franchise for three years. During that time, Jess and I attended an aO-Hour Basic Tax Course, worked 2 seasons as a Licensed Tax Preparers and passed the Oregon LTC exam to become Licensed Tax Consultants. We also learned that the licensing laws of Oregon were of little concern to our franchisor who openly ordered us to violate Oregon laws in favor franchisor policy. It was a constant battle trying to run an ethical and compliant tax business in Oregon with the franchisor giving little regard to Oregon state regulations which governed our business. In 1995 we terminated the franchise agreement and went independent. Experience as an independent tax service owner

Utilizing experiences gained as a franchisee with Jackson Hewitt, we were able to successfully grow our independent tax business by offering tax preparation services, RALs and RACs. One of our first independent moves was to call Refund Anticipation Loans RALS and to identify RALS as loans to our customers. In those days Jackson Hewitt called RALS Superfast

Refunds and H&R Block called them Rapid Refunds, but we felt these titles were misleading so we chose to call RALS what they were.

Times have changed and the RAL industry is in decline, however RALS and RACs still account for about 15% of our tax season revenues. We continue to offer RALS and RACs to ensure we remain competitive with the national chains however the majority of our business now comes from offering high-quality tax and accounting services to middle and upper-middle income taxpayers and small businesses.

#### **History of our tax school**

One of the biggest challenges facing our business has been employee recruitment. Oregon's licensing laws mean there are a limited number of tax preparers available. The work is seasonal and historically low-paying so recruiting and keeping qualified preparers has been a key challenge for our business. In 2001 we decided to address the shortage of preparers by opening our own tax school. This was no small challenge and required considerable financial resources to get started however the effort was successful in terms of employee recruitment.

From the beginning our school has directed its efforts on two key goals:

- Preparing students for the Oregon LTP exam, and
- Teaching students how to apply tax law to completion of actual tax returns.

Our first Basic Tax Course was taught as an 80-hour course. *(80 hours is the minimum course length required for qualifying basic tax education under Oregon state law.)* Graduates of our first-year program went on to achieve a pass-rate of 80% at the Oregon Tax Board Exams.

This pass rate was higher than that achieved by H&R Block, Jackson Hewitt and most other schools. Despite our school's first-year success, we found it difficult to give adequate coverage to all course topics in just 80 hours, and therefore increased the length of the program to 87 hours for all subsequent years.

Today we run what we believe to be the top tax school in Oregon. Our student's pass-rates at the Oregon LTP exam are among the highest in Oregon and have consistently exceeded those of H&R Block, Jackson Hewitt and Liberty Tax Services by 20-40 percentage points every year since 2001. In the 2008 exam cycle our pass rate was 93%. Our school is offered in classroom, live webinar, self-paced online and correspondence formats. In 2009 our school was approved by the California Tax Education Council to provide qualifying education programs for California tax preparers. Rather than lower the standards of our Basic Tax Course to meet California's less stringent requirements, we have chosen to offer our course at 87 hours rather than just 60 as CTEC currently requires.

Board Member of the Oregon Board of Tax Service Examiners

In addition to operating our tax and accounting practice, my husband Jess Gutierrez serves as member of the Oregon Board of Tax Practitioners. The Oregon Board of Tax Practitioners consists of seven members all of whom are appointed by the Governor. Member terms last three years.

Comments relating to proposed IRS regulation of tax preparers

Based on my 17-years of experience operating a tax service in Oregon, I believe I am qualified to offer my opinions and recommendations regarding national regulation of tax preparers. I strongly support regulation and believe it will lead to improved tax return accuracy and a more level playing field for competing tax services. To keep my discussions relevant and on topic, I have chosen to write my comments as answers to specific questions posed in IRS Notice

2009-60 as follows:

*Question: What types of individuals, entities, and professionals currently work as tax return preparers?*

Answer: We have a year-round staff of 8. In tax season our staff grows to 20. Our yearround staff includes:

April Gutierrez, EA, LTC (BA in Communications)

Jess Gutierrez, LTC (BS in Accounting)

Len Mitchell, CPA (Bachelor of Commerce)

SanDee Tharp, LTC (Associate Degree)

Heather Hua, LTP (BS in Accounting)

Mirjam Metcalf, LTP (BS in Accounting)

Ann Bernton, LTC (BS)

Kathleen Mitchell, LTP (BA)

During tax season we hire about 10 additional seasonal workers who are LTPs or

LTCs. We also hire one unlicensed person to assist with processing of tax returns and reception work. A LTP is an Oregon Licensed Tax Preparer. A LTC is an Oregon Licensed Tax Consultant.

*Question: How are their tax return preparation services currently monitored or regulated by professional organizations or the government?*

Answer: Pacific Northwest Tax Service is regulated by the Oregon Board of Tax

Practitioners. Our CPA is regulated by the Oregon Board of Accountancy.

The Oregon Board of Tax Practitioners has authority over tax preparers who are not CPAs and are not employed by CPAs. Under Oregon Law, any person who conducts data entry, collects data relating to tax return preparation or prepares a tax return must be licensed by the Oregon Board of Tax Practitioners unless they are exempt from licensing laws. Exempt individuals include CPAs, certain attorneys, federal and Oregon revenue employees and volunteers who prepare tax returns for free. CPAs are regulated by the Oregon Board of Accountancy. CPAs are exempt from

Oregon laws governing tax preparers. As long as a CPA signs the final tax return, there is currently no rule requiring employees who prepare returns for a CPA be licensed or have any educational credential.

*Question: How could this monitoring and regulation be improved?*

Answer: Oregon takes pride in maintaining the highest educational and licensing standards of any state in the country. Still, oversight of our industry could be much better than it is because incompetent and unethical tax professionals still manage to operate freely for two primary reasons:

1. The Oregon Board of Tax Practitioners routinely fails to enforce key rules designed to protect the public.
2. CPAs are assumed to be competent in tax law when they often are not.



Additionally, CPAs are permitted to employ unlicensed preparers. In effect this means CPAs and their employees may (and often do) have less training and education in tax law than a first-year Oregon LTP working at a non-CPA tax office.

Monitoring and regulation of tax preparers in Oregon could be improved in the following ways:

1. The Oregon Tax Board currently does not enforce the following rules intended to protect the public:

a. Posting of price schedules - A posted price schedule allows the public to see:

i. The pricing structure used by the tax service,

ii. Additional charges for RALs, RACs, bookkeeping, etc.

iii. That a discount or other advertising promotion is being honored, and

iv. To compare the cost-service-experience ratio offered by one tax service with those offered by competing tax services.

b. Oregon rules require the LTC to review tax returns prepared by junior-level tax preparers. This rule, when applied, provides vital training for junior-level preparers. The rule is followed by some LTCs but is generally ignored at the larger franchised businesses.

Generally, the Oregon Tax Board does not investigate or enforce this rule. As a result, quality of tax preparation services and the education of tax preparers is compromised. Failure to enforce the review rules also creates inequity in enforcement of Tax Board rules.

2. In Oregon, there is no public awareness of the Tax Board or its mission of protecting consumers. The Board's mission of protecting consumers is inhibited by public ignorance and tax preparer indifference to enforcement actions that rarely occur.

a. The public at large does not know Oregon preparers must be licensed,

b. The Tax Board has no public awareness program and makes little effort at outreach to the media.

c. Public knowledge of the Tax Board is so limited that even our own

Senator Ron Wyden as recently as June, 2009 did not know the

Oregon Tax Board existed or that Oregon was being considered as a model for national licensing of tax preparers.

d. The Tax Board limits its enforcement efforts largely to investigation of complaints filed by consumers. Since most consumers do not know where to file a complaint, I estimate a small percentage of consumers with valid complaints actually file a complaint with the Tax Board.

Violations of ethics rules by tax practitioners with valid licenses therefore go on unabated year-after-year.

*Question: How do difference in regulation and oversight affect how the various groups of tax return preparers interact with the Service and taxpayers?*

Answer: Here I can speak only for my own tax practice since I don't know how other businesses interact with the IRS. As a tax practitioner concerned with delivering accurate and timely tax preparation and consulting services to my clients, I regularly contact IRS personnel for information and advice on complex tax issues. For over a decade, I turned to IRS auditor Alan Eldridge who worked out of the Portland office. Since Alan retired I have struggled to find another revenue officer as helpful and knowledgeable as

Alan was. Recently, I discovered the Washington DC offices of revenue officers responsible for writing Internal Revenue procedures. In particular

I have begun to turn to one Revenue Officer, Charles Magee, for advice and assistance on tax matters beyond my scope or experience.

I find access to knowledgeable and helpful Internal Revenue officers is crucial to my ability to deliver quality service to my clients. I make frequent use of the Tax Practitioner Hotline, but often find my questions are beyond the scope of the revenue officer on the other end of the phone call. Access to more experienced personnel like Alan Eldridge and Charles Magee is therefore very important.

*Question: Is there a minimum level of education and training necessary to provide tax return preparation services?*

Answer: Oregon requires all tax preparers who are not exempt from licensing laws to obtain the following education and training:

1. Successful completion of an approved 80-Hour Basic Tax Course covering federal and Oregon individual tax laws.

- Schools offering Basic Tax Course programs must be licensed as vocational schools by the Oregon Department of Education.

- Equivalent education obtained by students who have attended university can be accepted.

2. Successfully pass an examination conducted by the Oregon Tax Board by achieving a score of 75% or higher.
3. Tax preparers must be age 18 years or older and hold a high-school diploma, GED equivalent or higher education.
4. Tax preparers are considered apprentice-level workers who must work under the supervision of a Licensed Tax consultant (LTC).
5. To become an LTC, a preparer must work a minimum of 780 over a 2-5 year period, and pass another higher-level Tax-Board administered exam covering federal and Oregon individual tax law.
6. Individuals with work experience from another state will be permitted to sit the Oregon LTC exam if they can show:

- Work experience of not less than 780 hours, and
- Successful completion of an approved 80-Hour Basic Tax Course.

7. An Enrolled Agent may become an Oregon LTC by submitting proof of Enrollment and passing the Oregon state tax law portion of the LTC exam.

*Question: If (there is a minimum level of education and training), who should be responsible for ensuring that a tax return preparer meets this minimum level and how should that be done?*

Answer: I believe Oregon's two-tiered licensing system is crucial to long-term skill and knowledge development by the tax preparer. A way for IRS to administer a system of educating and licensing preparers comparable to the Oregon system could be achieved as follows:

- Enrolled Agents already possess licenses issued by the IRS and could be considered the IRS equivalent of Oregon's LTC.
- Individuals who are not Enrolled Agents should be required to complete an IRS-approved basic tax course covering federal tax laws. The scope of the course should be sufficient to train entry-level preparers in basic individual tax law to an extent that the preparer gains familiarity with most of the tax forms and laws applying to tax returns filed by the majority of individual filers and is adequately prepared to pass an examination on individual income tax law.

The IRS already has a system in place for approving CPE providers for Enrolled Agents. This program could be expanded to include basic education providers. IRS would need to actively promote educational requirements and approved education providers to ensure students are protected from low-quality or unethical education providers.

- I believe examinations should be conducted by the IRS and should be closed-book. California's system of entrusting preparer testing to individual schools means California has no uniform standard of ensuring California Registered Preparers have a minimum level of tax knowledge and therefore should not be a model for the IRS.
- The IRS already conducts testing for Enrolled Agents and should work to expand programs currently used to test Enrolled Agents by adding a lower-level test for entry-level tax preparers.

With so many unenrolled tax preparers working in the United States, it would be impractical to enforce Oregon's two-tiered licensing structure (at least for the short-term). However, a broad public awareness campaign which promotes Enrolled Agents as holding a superior-level license could encourage the public to seek out EAs over lower-level licensees. Unenrolled preparers would then be encouraged to seek out education and training needed to pass the EA exam because of the competitive advantage gained by holding a higher-level license.

*Question: What, if any, service and outreach should be provided to tax return preparers and taxpayers? Who should provide (and bear the costs for) these needed services?*

Answer: *Outreach* should be broad, effective and diverse. Examples of programs which could be utilized include:

1. Advertising on TV, radio and billboards. (Costs for this program can be covered through licensing fees collected from tax preparers and Enrolled Agents. A cost-per-preparer could be as little as \$5 and still bring in considerable revenue.) Additional revenue for advertising could be obtained from collection of fines imposed upon tax practitioners and businesses that violate ethics and licensing rules.
2. Manufacturers of tax software should be required to include specific messages about licensing rules governing tax preparers:
  - a. On software packaging,
  - b. On website landing pages,
  - c. On software-generated tax forms, and
  - d. Prominently displayed on the main screen of tax preparation software such that the licensing requirements are prominently displayed and visible to the tax preparer or taxpayer who is using the software.

(The cost of including licensing messages would be borne by tax software manufacturers and would be negligible.)

3. Licensing messages should be prominently displayed on all IRS forms and publications. (The cost of including licensing messages on IRS publications and forms would be negligible because printing of these publications is already a cost borne by the IRS.)

4. Tax preparer licenses should be prominently posted in all tax preparation facilities. The license should be large (8" x 10") and contain:

a. Expiration date

b. Original date of licensure

c. A message to the consumer that licensing and postage of the license is mandatory for all paid preparers.

5. Public relations programs which reach out to TV, radio, print and internet media. Tax stories are popular during tax season, so outreach should be very easy.

*Question: Should tax return preparers be subject to a code of ethics, and, if so, what specific behavior should that code promote or prohibit? How would that code of ethics interact with existing ethical standards that may already be applicable?*

Answer: Ethical conduct tax preparers is key to achieving the overall purpose of any tax preparer licensing law. Preparers should be bound by and practice the following ethical conduct:

1. Service of the taxpayer - Serve the best interests of the taxpayer while abiding by all federal and state tax laws affecting the taxpayer by delivering timely and accurate tax preparation services.

2. Educational requirements - Tax preparers have an obligation to understand tax laws and to make reasonable efforts to support positions taken on the tax return. Basic and continuing education requirements should be placed upon all practicing tax professionals regardless of other non tax-related educational credentials. The IRS should create minimum standards for approving CPE providers.

3. Record-keeping - Tax preparers should conduct extensive client interviews and maintain records of these interviews for a minimum of 4 years after delivery of services to the taxpayer.

4. Fraud reporting- IRS should set up a referral system whereby tax preparers and taxpayers can easily report abuses of the system by noncompliant taxpayers and tax practitioners.

5. Cooperation between IRS and Tax Practitioners - the IRS Tax Practitioner

Hotline should be expanded to include research and support services for tax preparers at a MUCH higher level than is currently provided. As a tax practitioner I want support from IRS personnel who know more about tax law than I do. This rarely happens with the Hotline service currently provided.

6. Financial compensation of the preparer should not be tied to the size of the refund on a tax return - It is common practice at many tax services (especially the national chains) to adjust the price of the tax return up when a taxpayer's refund goes up. The higher the refund, the higher the fee. This practice needs to be prohibited so that preparer's fees are based upon professional services. It is a conflict of interest for a preparer to benefit financially if a client's refund goes up.

*Question: What, if any, responsibility should the firms or businesses that employ tax return preparers have for the conduct of the individuals they employ?*

Answer: Tax firms and businesses should be licensed separately from the tax preparers they employ. In this way the firm and the preparer can both be held accountable for compliance and give the IRS more leverage for enforcing ethics, education and licensing requirements.

Oregon currently requires all tax preparation firms be licensed. Fees associated with licensing tax offices are nominal (less than \$100 per year). Oregon Tax

Preparers must inform the Oregon Tax Board of the tax office they are working for. This system of licensing is straight-forward and could easily be implemented as part of a larger program of licensing all preparers.

*Question: What, if any, responsibility should tax return preparer professional organizations have for the education, training, and conduct of their members?*

Answer: Tax professional organizations can and should play an important role in education, training and conduct of tax practitioners. A united effort amongst ethical and educated tax preparers will promote the tax practitioner profession and help weed out unethical preparers who bring unfair trade practices to the industry. Most professional tax preparer organizations already offer training and education to their members. IRS should utilize these organizations to deliver compliance messages and reach out to the tax practitioner community.

*Question: If tax return preparation services should be regulated, what, if any, special regulatory provisions should be made for individuals who are already tax return preparers, licensed attorneys, certified public accountants, enrolled agents, or software providers?*

Answer: When Oregon first introduced its tax preparer licensing program, preparers who were already active in the state were grandfathered and not required to pass Tax Board examinations. As a tax service owner I learned early on that a grandfathered preparer was far more likely to be incompetent than a first-year preparer who had just passed the LTP exam.

Grandfathering Oregon tax preparers was a bad idea back in 1973 and is a bad idea today. Tax preparers must be able to show minimum levels of competency and should be expected to pass an entry-level exam. Any tax professional that is afraid they cannot pass an IRS exam in basic tax law can and should go back to school.

The Oregon Tax Board has been considering what steps it can take to grandfather Oregon preparers into any new national IRS licensing program. I think the IRS should require all tax preparers to pass an entry-level examination regardless of their prior experience. Tax preparers in Oregon may be more qualified on average than preparers in other states, but they should not be given special treatment.

CPAs must pass state examinations in accounting, finance and ethics. Most state examinations also contain a small section covering tax law. It can be

argued that CPAs should be grandfathered into any national licensing program, however, it is again my experience that many CPAs have little formal education, training or experience in taxation and frequently know less about taxes than the tax preparers they employ.

Assuming a CPA is knowledgeable in tax law is incorrect. IRS should require CPAs who preparer tax returns be registered with IRS as tax-practicing CPAs.

At a minimum, tax-practicing CPAs should be required to submit proof of annual CPE hours in courses specifically relating to tax law. State Boards of

Accountancy could play a role in any programs intended to ensure CPAs are educated in tax laws.

Similar tax education rules should apply to Attorneys. Those attorneys not practicing tax law would not need to register with IRS. Attorneys who do practice tax law should be registered with IRS and maintain continuing education in tax law.

Enrolled Agents who have passed the IRS EA examination have already demonstrated they have a minimum level of competency in tax law. Additionally,

IRS already requires EAs to obtain tax-related CPE. I therefore believe Enrolled Agents are the one group who can and should be grand-fathered in.

*Question: What, if any, additional legislative, regulatory, or administrative rules should the Service consider recommending as part of its proposals with respect to the tax return preparer community?*

Answer: Regulation of tax preparers should focus on two key objectives:

1. Improved accuracy of returns prepared by tax practitioners and software providers, and
2. Consumer protection.

Tax practitioners must be well educated in tax laws and ethical in their dealings with the IRS and consumers.

Oregon's regulations should be examined and improved upon. The California Tax Education Council's experience with what appears to be an effective public education program should also be considered.

Regarding consumer protection, RALs and RACs allow tax services to give professional services to low-income taxpayers who do not have the money to pay for services up front. The IRS should consider what steps it can take to ensure consumers are fully informed on the cost of these products and to make the need for these products obsolete. Current rules requiring tax practitioners to get taxpayer signatures on RAL disclosure documents are not effective because these documents are not properly explained to consumers and consumers do not read them.

## Conclusion

Thank you for the opportunity to offer my comments on proposed federal regulation of tax practitioners. I realize the IRS is being pressured by numerous independent and influential special interests who feel their groups should not be regulated or who want to see regulations kept to a minimum. After 17 years of running a successful independent tax business in the Nation's most regulated state I say Oregon's only weakness is that the Tax Board does not enforce existing rules often enough. I encourage and challenge the IRS to propose a set of recommendations that builds upon the Oregon experience to give consumers and taxpayers access to competent and ethical tax practitioners throughout the country.

Sincerely:

April Gutierrez, E.A., L.T.C

Managing Director

Pacific Northwest Tax Service

April Gutierrez, E.A., L.T.C  
Managing Director  
Pacific Northwest Tax Service

Sent: Monday, November 23, 2009  
Subject: Notice 2009-60

I have been an EA since I started preparing tax returns, in 1998. Why not require everyone to become and Enrolled Agent. The system is already in place. It seems quite simple to me. If a person has been preparing taxes for a long time, passing the exam should not be difficult, and just continue with the program. Possible, the EA can require a bond.